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Consideration of reports submitted by States parties under article 40 of the Covenant

List of issues in relation to the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland

Addendum

Replies of the United Kingdom of Great Britain and Northern Ireland to the list of issues*

[Date received: 25 March 2015]

* The present document is being issued without formal editing.

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List of abbreviations

BME	Black and Minority Ethnic
BOT	British Overseas Territory[1]
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CD	Crown Dependency[2]
CRC	Convention on the Rights of the Child
ECHR	Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms
ECNI	Equality Commission for Northern Ireland[3]
ECtHR	Council of Europe European Court of Human Rights
EHRC	Equality and Human Rights Commission[4]
EU	European Union
HM	Her Majesty's
HMP	Her Majesty's Prison
HRA	Human Rights Act 1998[5]
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP1	Optional Protocol to the International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
JCHR	UK Parliament Joint Committee on Human Rights[6]
LOI	"List of Issues" from the Human Rights Committee[7]
NGO	Non-governmental organization
NHRI	National Human Rights Institutions (in the UK, they include the: EHRC; SHRC; NIHRC)
NHS	National Health Service
NIHRC	Northern Ireland Human Rights Commission[8]
Paris Principles	Principles relating to the status of national institutions

[1] There are fourteen British Overseas Territories, the following ten of which are permanently inhabited (see pp. 40–115 of HRI/CORE/GBR/2014): Anguilla; Bermuda; Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno; St Helena, Ascension, Tristan da Cunha; Turks and Caicos Islands; Virgin Islands (commonly known as the British Virgin Islands).

[2] There are three Crown Dependencies (see pp. 115–147 of HRI/CORE/GBR/2014): the Bailiwick of Guernsey; the Bailiwick of Jersey; and the Isle of Man.

[3] www.equalityni.org/.

[4] www.equalityhumanrights.com/.

[5] www.legislation.gov.uk/ukpga/1998/42/contents.

[6] www.parliament.uk/jchr.

[7] CCPR/C/GBR/Q/7.

[8] www.nihrc.org/.

PSNI	Police Service of Northern Ireland
SHRC	Scottish Human Rights Commission[9]
UK	United Kingdom (England, Northern Ireland, Scotland, Wales)
UPR	Universal periodic review
VAWG	Violence Against Women and Girls

[9] www.scottishhumanrights.com/.

Introduction

1. The UK Government is grateful to the Human Rights Committee for the opportunity to respond to the LOI that are going to form the basis of the examination of the UK (and of those BOTs and CDs to which the ICCPR has been extended) in July 2015. The response to the LOI is enclosed below.

2. The LOI is composed of 30 paragraphs which, according to the UK Government, subdivide into 87 separate issues to which to respond. Whilst every effort was made to keep within the 30 page limit recommended by the Committee Secretary[10] for the UK response, it was not possible to do so because of:

- The number of issues raised;
- The need to reflect the specific position of the devolved administrations (in Northern Ireland, Scotland and Wales) where appropriate;
- The need to reflect that the UK has three legal jurisdictions (England and Wales; Scotland; and Northern Ireland) and that the implementation of the ICCPR, though applying uniformly across the UK, may take place through different mechanisms.

3. In order to minimize the number of words, the UK response contains several references to separate recent UK reports to the United Nations as well as links to a wide range of documents that the Committee may wish to take into account in its assessment of the compliance of the UK with the ICCPR.

4. The UK Government hopes that the response will address the Committee's concerns and looks forward to the dialogue with the Committee in July.

Response to the LOI

1. Extra-territoriality

5. As stated in the UPR's Mid Term Report[11], UK personnel on military operations overseas are subject to the law of England and Wales, and are required to act in accordance with applicable human rights law and international humanitarian law.

6. As set out in the UK's seventh periodic report under the ICCPR[12], the UK's human rights obligations are primarily territorial and the ICCPR can only have effect outside the territory of the UK in exceptional circumstances. Similarly, the ECtHR has held that the ECHR only applies extra-territorially in exceptional circumstances, although international human rights treaties do not necessarily have the same scope of application. The UK seeks to comply with its human rights obligations in relation to all persons detained by its Armed Forces.

2. ICCPR implementation

7. The UK Government respectfully refers the Committee to the UK's pre-1998 periodic reports, particularly the First[13] and Fourth[14] reports which explain how the UK was

[10] Letter of 11 November 2014, reference KF/112/LOI.
[11] P. 32 of Mid Term Report 2014.
[12] P. 97 of CCPR/C/GBR/7.
[13] CCPR/C/1/Add.17.
[14] CCPR/C/95/Add.3.

giving effect to the rights contained in the Covenant before the HRA. As outlined in those reports and also in the post-1998 reports, the UK enacted a significant amount of legislation, apart from the HRA, and adopted measures that give effect to the rights contained in the ICCPR, including for example:

- Right to self-determination (article 1): devolution process (Northern Ireland Act 1998[15]; Scotland Act 1998[16]; Scotland Act 2012[17]; Government of Wales Act 1998[18]; Government of Wales Act 2006[19]). It should also be noted that there are ongoing political discussions to strengthen the powers of the Scottish Parliament within the UK (see the report[20] of the Smith Commission of 27 November 2014);
- Non-discrimination and gender equality (articles 2, 3): consolidation and expansion of anti-discrimination legislation, including the introduction of a "public sector equality duty" (Equality Act 2006[21]; Equality Act 2010[22]; The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011[23] (in Wales); and The Equality Act 2012 (Specific Duties) (Scotland) Regulations 2012[24] (in Scotland)); legal recognition of transexual people in their acquired gender (Gender Recognition Act 2004[25]); legal recognition of the relationship between two people of the same sex (Civil Partnership Act 2004[26]); legalization of the marriage of same sex couples respectively in England and Wales, and in Scotland (Marriage (Same Sex Couples) Act 2013[27]; Marriage and Civil Partnership (Scotland) Act 2014[28]); legislation against forced marriage respectively in England and Wales, and in Scotland (Anti-Social Behaviour, Crime and Policing Act 2014[29]; Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011[30]);
- Right to life (article 6): abolition of the death penalty (Murder (Abolition of Death Penalty) Act 1965[31]; Crime and Disorder Act 1998[32]);
- Prohibition of torture (article 7): introduction of the offence of torture (Criminal Justice Act 1988[33]);
- Prohibition of slavery and forced labour (article 8): Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015[34], for Northern Ireland. A "Modern Slavery Bill" and a "Human Trafficking

[15] www.legislation.gov.uk/ukpga/1998/47/contents.
[16] www.legislation.gov.uk/ukpga/1998/46/contents.
[17] www.legislation.gov.uk/ukpga/2012/11/contents.
[18] www.legislation.gov.uk/ukpga/1998/38/contents.
[19] www.legislation.gov.uk/ukpga/2006/32/contents.
[20] https://www.smith-commission.scot/.
[21] www.legislation.gov.uk/ukpga/2006/3/contents.
[22] www.legislation.gov.uk/ukpga/2010/15/contents.
[23] www.legislation.gov.uk/wsi/2011/1064/contents/made.
[24] www.legislation.gov.uk/ssi/2012/162/contents/made.
[25] www.legislation.gov.uk/ukpga/2004/7/contents.
[26] www.legislation.gov.uk/ukpga/2004/33/contents.
[27] www.legislation.gov.uk/ukpga/2013/30/contents.
[28] www.legislation.gov.uk/asp/2014/5/contents.
[29] www.legislation.gov.uk/ukpga/2014/12/part/10.
[30] www.legislation.gov.uk/asp/2011/15/contents.
[31] www.legislation.gov.uk/ukpga/1965/71/contents.
[32] www.legislation.gov.uk/ukpga/1998/37/section/36.
[33] www.legislation.gov.uk/ukpga/1988/33/part/XI/crossheading/torture.
[34] www.legislation.gov.uk/nia/2015/2/contents/enacted.

and Exploitation (Scotland) Bill" are currently being debated respectively in the UK Parliament and the Scottish Parliament;

- Right to liberty and security (articles 9, 10): extensive legislation, such as the Police and Criminal Evidence Act 1984[35], and related Codes of Practice[36], provide a statutory framework against arbitrary arrests;
- Right to privacy (article 17): legislation protecting personal data and addressing defamation (Data Protection Act 1998[37]; Defamation Act 2013[38] (in England and Wales));
- Freedom of expression (article 19): strengthening of information rights through the Freedom of Information Act 2000[39] (in England, Wales and Northern Ireland) and the Freedom of Information (Scotland) Act 2002[40] (in Scotland);
- Prohibition of incitement to racial or religious hatred (article 20): legislation punishing the incitement of religious hatred (Public Order Act 1986[41]; Racial and Religious Hatred Act 2006[42]);
- Protection of children (article 24): the UK fifth periodic report under the CRC[43] provides an overview of the legislation currently protecting families and children.

8. Furthermore, as indicated in the Core Document 2014[44], various civil and political rights have long been recognised and protected in legislation or common law, for example: punishment only by the law or following judgment by one's peers (Magna Carta 1297[45], in England and Wales); right to challenge unlawful detention (Habeas Corpus Act 1679[46], in England and Wales; and Claim of Right Act 1689[47], and Criminal Procedure Act 1701[48], in Scotland); right to private property and its defence against trespass (*Entick v. Carrington & Ors* [1765] EWHC KB J98[49], in England and Wales).

9. Finally, the UK is a party to various international treaties, apart from the ICCPR, protecting civil and political rights (see the Core Document 2014[50]).

10. With specific regard to Scotland, the Scottish Government has sought to reflect the principles set out in relevant treaties, including the ICCPR, through law and policy wherever possible, and to act in ways that give effect to international obligations, and not to act in ways that are incompatible with those obligations. Work being taken forward under Scotland's National Action Plan for Human Rights[51] (launched in December 2013) seeks to develop and extend the existing constructive dialogue between Government and civil

[35] www.legislation.gov.uk/ukpga/1984/60/contents.
[36] https://www.gov.uk/police-and-criminal-evidence-act-1984-pace-codes-of-practice.
[37] www.legislation.gov.uk/ukpga/1998/29/contents.
[38] www.legislation.gov.uk/ukpga/2013/26/contents.
[39] www.legislation.gov.uk/ukpga/2000/36/contents.
[40] www.legislation.gov.uk/asp/2002/13/contents.
[41] www.legislation.gov.uk/ukpga/1986/64/contents.
[42] www.legislation.gov.uk/ukpga/2006/1/contents.
[43] CRC/C/GBR/5.
[44] P. 31 of HRI/CORE/GBR/2014.
[45] www.legislation.gov.uk/aep/Edw1cc1929/25/9/contents.
[46] www.legislation.gov.uk/aep/Cha2/31/2/contents.
[47] www.legislation.gov.uk/aosp/1689/28/contents.
[48] www.legislation.gov.uk/aosp/1701/6/contents.
[49] www.bailii.org/ew/cases/EWHC/KB/1765/J98.html.
[50] Pp. 29–30 of HRI/CORE/GBR/2014.
[51] http://scottishhumanrights.com/actionplan.

society in Scotland to further give effect to international human rights treaties in general. Further examination of the measures taken to give effect to rights under the Covenant, where these are not already covered by the HRA, will feature in that work. The Scottish Government remains opposed to any attempt to repeal the HRA or to withdraw from the ECHR.

Northern Ireland Bill of Rights

11. Progress on a Bill of Rights for Northern Ireland is contingent on political consensus in Northern Ireland as to the content of such a Bill. The UK Government facilitated negotiations which culminated in the Stormont House Agreement of 23 December 2014[52]. Although there is not at present consensus on this specific issue, the parties committed themselves to serving the people of Northern Ireland equally and in accordance with their obligations to promote equality and respect and to prevent discrimination. The UK Government is committed to progressing this issue on the basis of an overall consensus among the Northern Ireland parties.

HRA

12. There are no UK Government plans, at present, to repeal the HRA. It is important to differentiate between statements by political parties and UK Government's policy.

13. The UK Government has agreed in the context of the Coalition Agreement[53] that the obligations under the ECHR will continue to be enshrined in domestic law. While political parties have expressed (and are expressing) views on policy directions that they may wish to consider in the future, the Coalition Agreement makes it clear that there will be no major changes to the human rights framework before the general election in May 2015.

3. Ratification of the ICCPR-OP1

14. The UK Government remains unclear about the practical benefits of the right to individual petition to the United Nations. For more details, please see the UK's Mid Term Report 2014[54] under the UPR.

15. In preparing the above report, the UK Government engaged with a wide range of external stakeholders[55], including the JCHR, NHRIs and a number of NGOs. Stakeholder events were held in: London (on 19 March and 18 September 2013); Edinburgh (on 12 June 2013, hosted by the Scottish Government); Cardiff (on 31 July 2013, hosted by the Welsh Government); and Belfast (on 16 December 2013). In addition, an online submission system, open to all members of the public and organizations, was live between March and 1 October 2013.

Reservations on the ICCPR

16. The UK reservation on article 11 ICCPR on behalf of Jersey was withdrawn on 4 February 2015.

17. Further, the UK Government considers that those UK reservations which were not confirmed on ratification have now lapsed, and that the UK reservations on behalf of former BOTs (namely, Belize/British Honduras; Fiji; Gilbert Islands; Hong Kong; Solomon

[52] https://www.gov.uk/government/publications/the-stormont-house-agreement.
[53] https://www.gov.uk/government/collections/coalition-programme-for-government.
[54] Pp. 9–10 of Mid Term Report 2014.
[55] www.justice.gov.uk/human-rights/universal-periodic-review/upr-events.

Islands; Southern Rhodesia; Tuvalu) are to be considered obsolete in relation to the UK's ratification.

18. All derogations from the ICCPR have been terminated.

19. The remaining reservations and declarations are maintained for the reasons set out in the UK seventh periodic report under the ICCPR[56] but the UK Government will review them again before the examination in July 2015 and will update the Committee where the position has changed.

4. Contributions from the Northern Ireland Executive

20. The UK Government has raised the issue of the contributions to periodic reports to the United Nations on a number of occasions with the devolved administration and reminded it of its obligations. The UK Government will continue to monitor the devolved administration's performance on this issue and will work with them to ensure that the required information is provided.

NIHRC

21. The Northern Ireland (Miscellaneous Provisions) Act 2014[57] places a statutory requirement on the UK Government to consult on the impact of the NIHRC's independence and its ability to meet such requirements as those set out in the Paris Principles prior to any transfer of responsibility to the devolved administration. The UK Government works closely with the NIHRC to ensure its financial resources are sufficient to enable it to function effectively.

5. Combating racism

22. The UK Government has set out its plan to combat hate crime in "Challenge it, Report it, Stop it: The Government's Plan to Tackle Hate Crime" published in 2012[58] and updated in 2014[59]. The plan covers all forms of hate crime and sets out three priorities: preventing hate crime; increasing reporting and access to support; and improving the response to hate crime.

23. A cross-government Hate Crime Programme brings all UK Government Departments together with criminal justice agencies in England and Wales to ensure a coordinated response. The programme also benefits from a standing Independent Advisory Group (IAG) that includes victims to enable their interests to be at the centre of policy decisions. Achievements include:

- Overseeing the development of guidance for key professionals. The College of Policing published its Hate Crime Strategy and Operational Guidance in 2014[60] and the Crown Prosecution Service has published its own guidance to prosecutors[61];
- Development of educational resources led by the Crown Prosecution Service[62] to enable educators to counter bullying in schools.

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[56] Pp. 33–45 of CCPR/C/GBR/7.

[57] www.legislation.gov.uk/ukpga/2014/13/contents.

[58] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97849/action-plan.pdf.

[59] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307624/HateCrimeActionPlanProgressReport.pdf.

[60] www.report-it.org.uk/strategy_and_guidance.

[61] www.report-it.org.uk/files/cps_policy_on_racial_and_religious_hate_crime.pdf.

[62] www.report-it.org.uk/education_support.

24. A range of initiatives to reduce the harm caused by hate crime on the internet has been produced for the public[63], prosecutors[64] and police officers[65]. Officials have worked with the Society of Editors to help them to produce guidance to their colleagues[66].

25. The UK Government publishes hate crime data as part of the National Crime Statistics. The report published in October 2014[67] shows that in 2013/14 the police in England and Wales recorded 37,484 race hate crimes and 2,273 religious hate crimes. This indicates rises of 4% and 45% respectively on 2012/13 data.

26. In England and Wales, the Crown Prosecution Service reported[68] that: 11,818 racially aggravated cases were prosecuted in 2013/14, 85.2% resulted in convictions and 75.9% of all convictions involved guilty pleas; 550 cases involving religiously aggravated hostility were prosecuted and 84.2% resulted in a conviction. In addition to recorded crime data, the UK Government carries out an extensive household crime survey to estimate the levels of experienced crime and to inform activity to close the gap between recorded and actual crime. The Crime Survey of England and Wales[69] provides extensive information about the incidence of hate crime as well as the impact on victims and their experience of the criminal justice system. The report published in 2013 indicated that there were 154,000 race and 70,000 religious hate crimes.

27. In Northern Ireland, the Northern Ireland Executive (NIE) has worked with other statutory bodies and NGOs to tackle the dangerous racist myths that circulate and to ensure that people have the truth of the benefits of immigration and a multi-cultural society. The NIE provides over £1.1m per annum to organizations working with minority ethnic communities to take actions to build capacity in these communities to foster integration and to improve race relations. It is also working with community leaders and influencers in specific areas where racist incidents have occurred. The Northern Ireland Department of Education (DE) funds, and is part of the NI Anti-Bullying Forum (NIABF) which has established a racist bullying sub group. This group produced content for the Forum's website, including resources for schools to specifically promote cultural diversity and inclusion, with a view to prevent bullying due to race, faith and culture. DE is also bringing forward additional legislation to strengthen efforts to address bullying in all its forms. The Northern Ireland Department of Justice (DoJ) document, *Community Safety Strategy for Northern Ireland 2012-17, Building Safer, Shared and Confident Communities*, sets out commitments that the Criminal Justice System will take to tackle hate crime, including racial and religious, and the harm it causes. Action plans have been developed to deliver these commitments and implementation is overseen by a Hate Crime multi agency delivery group.

28. In Scotland, the Scottish Government has taken a range of measures to deliver race equality and better outcomes for Scotland's minority ethnic and faith communities, including:

- In December 2013, publication of the refugee strategy, "New Scots: Integrating Refugees in Scotland's Communities"[70]. Funding of £2.81m is currently being provided between 2012 and 2015 to several organizations working with refugees and

[63] www.report-it.org.uk/reporting_internet_hate_crime.
[64] www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/index.html.
[65] www.report-it.org.uk/strategy_and_guidance.
[66] www.societyofeditors.co.uk/page-view.php?page_id=1088&parent_page_id=141.
[67] https://www.gov.uk/government/statistics/hate-crimes-england-and-wales-2013-to-2014.
[68] www.cps.gov.uk/publications/docs/cps_hate_crime_report_2014.pdf.
[69] www.report-it.org.uk/files/ons_hate-crime-report_2013.pdf.
[70] www.scotland.gov.uk/Publications/2013/12/4581.

asylum seekers, including third sector organizations that provide advice on rights and entitlements;

- In July 2014, launch of the "One Scotland" campaign, promoting equality for all in Scotland and celebrating Scotland's diversity. The campaign includes radio and press advertising, partnership work, and work on social media.

29. Hate crime statistics in Scotland show that in 2012–13 the police recorded 4,628 racist incidents (a 14% decrease on 2011–12 (5,389))[71]. Figures for 2013–14[72] indicate that 4,148 charges relating to race crime were reported to the Procurator Fiscal in that year (3% increase on 2012–13, though the second lowest annual figure since 2003–04). In total, 93% of charges reported in 2013–14 led to court proceedings (including those incorporated into other charges for the same accused), and no action was taken in respect of 3% of charges. In relation to convictions, in 2012–13 there were 998 offences with a charge proved with a racial aggravator recorded in terms of section 96 of the Crime and Disorder Act 1998 (an increase of 50 on 2011–12)[73]. However, as these figures do not include offences prosecuted under other pieces of legislation related to racist hate crimes, they do not represent all charges proved for racially aggravated harassment or behaviour.

30. In Wales, schools must record all racist incidents, and report them at least annually to their local authority. Welsh Government guidance suggests good recording procedures allow schools to demonstrate they are taking steps to tackle bullying, and that initiatives are effective. In October 2011, the Welsh Government published "Respecting Others", a suite of comprehensive anti-bullying guidance covering five key areas. One of these areas is dedicated to bullying on the basis of race, culture and religion.

31. In 2013–14, the Welsh Government commissioned Estyn (the office of HM Inspectorate for Education and Training in Wales) to review the effectiveness of actions taken by schools to address bullying on the grounds of pupils' protected characteristics under the Equality Act 2010. In its report[74], which was published in June 2014, Estyn noted that, where there is a strong ethos in schools which promote equality and diversity, pupils report lower instances of bullying. The Welsh Government is using the report as the basis to inform future action and policy development on bullying.

32. See also the UK's Mid Term Report 2014 under the UPR[75], and, with regard to tackling bullying in schools, the UK fifth periodic report under the CRC[76].

6. Combating caste discrimination

33. In 2013, the UK Parliament decided that there should be explicit legislative protection against caste discrimination. This would be given effect by adding caste as an element of the race provisions within the Equality Act 2010 (the EA). In May 2013, the UK Government issued its timetable for the introduction of such legislation and preparatory research was commissioned to the EHRC. The reports from that research helped inform government thinking with regard to the legislation. The next scheduled step in that timetable was to conduct a full public consultation seeking views on a possible legal

[71] www.scotland.gov.uk/Publications/2013/12/4535.

[72] www.copfs.gov.uk/images/Documents/Equality_Diversity/Hate%20Crime%20in%20Scotland%202013-14.pdf.

[73] www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/Datasets/DatasetsCrimProc/crimprocaggrav2012-13.

[74] www.estyn.gov.uk/english/docViewer/315915.6/action-on-bullying-june-2014.

[75] Pp. **20–21**, 67–71, **73–76**, 119–122 of the Mid Term Report 2014.

[76] Pp. 44–45 of CRC/C/GBR/5.

definition of caste itself and identifying what exceptions within the EA should or should not apply to caste. However, the publication of a consultation was delayed pending the outcome of an employment case, *Chandhok v. Tirkey*, that was going through the domestic courts during 2014. In December 2014, the Employment Appeal Tribunal's judgment[77] in the case opened the possibility that there was an existing legal remedy for claims of caste-associated discrimination under current domestic legislation, namely through the 'ethnic origins' element of Section 9 of the Equality Act 2010. The UK Government is carefully considering the implications of that judgment for caste legislation before determining how best to proceed.

34. In Northern Ireland, a consultation has recently finished on a strategy for a racial equality and good race relations strategy for the Northern Ireland Executive (NIE). While work is still ongoing to analyse the results of a 19 week consultation, caste discrimination was not identified by any respondents as an issue for Northern Ireland. Nonetheless the NIE will give due consideration as to the need to legislate on this matter if and when it obtains evidence that this is an issue within Northern Ireland and that it cannot be dealt with by existing legislation.

Increasing diversity in the civil service and the judiciary

35. To build a world class 21st century Civil Service, the UK Government needs to recruit and retain the very best civil servants, irrespective of their background. Civil Service appointments must always be made on the basis of merit, blind to any factors other than the individual's ability to do the job. The Civil Service cannot afford to exclude people because of, for example, their gender, ethnicity, sexuality, social background or disability. In September 2014, the UK Government published its "Talent Action Plan"[78], which builds on existing work to improve capabilities and talent management in the Civil Service. A central plank of the UK Government's ongoing Civil Service Reform programme, the Action Plan sets out to build a world-class Civil Service, fit for the 21st century, where the most talented people succeed and reach the top positions, regardless of gender, ethnicity, sexuality or disability. Rather than fall back on targets which could conflict with the important and longstanding principle of recruiting on merit, the UK Government is committing to take concrete steps to create strong leadership that can set an open culture and develop and promote its talent. Immediate steps set out within the Talent Action Plan include: paying shared parental leave at the same occupational rate as maternity leave across the civil service; publishing a leadership statement setting out the behaviours expected in Civil Service leaders, with rigorous, objective feedback on performance; taking action to improve the experience of women on maternity leave including by providing them with more support and being more robust on monitoring Civil Service performance; requiring the most senior staff to support and mentor more junior employees, particularly talented individuals from underrepresented groups. The UK Government has also commissioned four separate reports to examine the experiences of women; people who are lesbian, gay, bisexual and transgender; those who declare they are from an ethnic minority background; and those who declare a disability or long term health condition. The first of these reports, "Women In Whitehall"[79] conducted by the Hay Group, was published on 5 September 2014, alongside the Talent Action Plan. The Talent Action Plan builds on existing initiatives to help talented people succeed, regardless of their gender, race, sexuality or whether they have a disability. These include but are not limited to: the Minority Ethnic Talent Association (META) "Growing Talent" programme aimed at black

[77] www.bailii.org/uk/cases/UKEAT/2014/0190_14_1912.html.

[78] https://www.gov.uk/government/publications/talent-action-plan-removing-the-barriers-to-success.

[79] https://www.gov.uk/government/publications/women-in-whitehall-culture-leadership-talent.

and minority staff at Grade 6/7 level with the potential to become future leaders of the Civil Service; the "Positive Action Pathway" Scheme to support talented women, BME and Disabled staff to promotion; and "Crossing Thresholds", a one year mentoring programme for women.

36. With regard to the Judiciary in England and Wales: in 2010 the Judicial Diversity Taskforce, comprising of the UK Government (Ministry of Justice), senior members of the Judiciary, the Judicial Appointments Commission (JAC), the Bar Council, the Law Society and The Chartered Institute of Legal Executives, was established to oversee implementation of the recommendations in the Report of the Advisory Panel on Judicial Diversity, chaired by Baroness Neuberger[80]. The Taskforce publish annual reports[81] on progress against the recommendations made by the Advisory Panel on Judicial Diversity. In addition to the significant work done by fellow Taskforce members, the UK Government has implemented, through Schedule 3 Part 2 of the Crime and Courts Act 2013[82], a new provision launched in July 2014 to allow diversity to be taken into account when two applicants for judicial post are of equal merit. The Act introduced a statutory duty for the Lord Chancellor and Lord Chief Justice to encourage judicial diversity. The Act also introduced salaried part-time working for in the High Court opening up flexible working opportunities to senior judicial office holders. Throughout the last 12 months Ministers have worked with the legal professions to speak at outreach events targeting ethnic minority lawyers and engaging with the solicitor's profession to encourage more applicants from a diverse background.

37. In Northern Ireland, the Northern Ireland Civil Service (NICS) is an equal opportunities employer and all vacancies in the NICS are publically advertised using a variety of different methods to ensure people from all backgrounds are aware of the opportunities for employment. The vast majority of positions are open to UK nationals, Commonwealth citizens and applicants from the EEA (European Economic Area). The NICS is committed to appointment on merit and adheres to the recruitment principles set out by the independent Northern Ireland Civil Service Commissioners. The Northern Ireland Executive recognizes this issue and will examine what might be done in the context of its new strategy to improve representation of minority ethnic people in the civil service.

38. In Scotland, the Scottish Government has an on-going commitment to evaluate its processes to improve upon its equality outcomes, and has consulted with other organizations to learn about how they nurture talent in a way that meets diverse needs. The Scottish Government is working with internal and external diversity networks to identify how best to attract people with protected characteristics to its Graduate Development Programme, Realising Potential Programme and Graduate Internship schemes. The Scottish Government supports Civil Service schemes that target, amongst others, ethnic minority groups. For example, the mentoring scheme in which all senior civil servants are tasked with mentoring at least one member of staff, includes a strand targeted at ethnic minority groups.

39. With regard to the judiciary in Scotland, the Judicial Appointments Board for Scotland has a statutory duty to appoint on merit and does not operate any positive discrimination in order to increase the representation of underrepresented groups in the judiciary. However, in carrying out its functions, the Board must have regard to the need to encourage diversity in the range of individuals available for selection to be recommended

[80] https://www.judiciary.gov.uk/publications/advisory-panel-recommendations/.

[81] See the 2013 report at https://www.gov.uk/government/publications/improving-judicial-diversity-judicial-diversity-taskforce-annual-report-2013.

[82] www.legislation.gov.uk/ukpga/2013/22/schedule/13.

for appointment to a judicial office. The Board has an outreach and diversity policy and, in its advertising, encourages and welcomes applications from the widest possible range of eligible individuals. The Justice Board[83] Equality & Diversity Subgroup includes the Crown Office and Procurator Fiscal Service, Police Scotland, the Law Society of Scotland, the Scottish Prison Service (SPS), the Scottish Court Service, the Scottish Legal Aid Board and the Justice Directorate. The Subgroup is taking forward the following six work streams to tackle under-representation in the justice sector at senior level across all protected characteristics, including women and ethnic minority groups: mentoring aimed at the development of staff; cross justice staff network groups to build confidence and provide support and role models; staff focus groups to establish the barriers to progression and development; unconscious bias training programme; future workforce programme to encourage school pupils to consider a career in justice; specialist consultation to obtain expert advice on further steps to take.

Gypsies/Roma and Travellers

40. The UK Government is very concerned by inequalities experienced by Gypsies and Travellers, and is committed to tackling them. In April 2012, the Ministerial Working Group on Reducing Gypsy and Traveller Inequalities published[84] a progress report which includes 28 commitments from across the UK Government to help mainstream services, including health, education and employment, and work better with Gypsies and Travellers. The UK Government has made good progress on meeting these commitments and plans to publish a further report summarizing this progress.

41. The UK Government is also encouraging local authorities to provide appropriate sites for Travellers, in consultation with local communities. The UK Government's Homes and Communities Agency is forecasting that by March 2015 it will have spent £50 million Traveller Pitch Funding to help Councils and other Registered Providers build 625 new and refurbish 369 existing Traveller pitches. Local authorities have been given incentives to deliver new housing, including Traveller sites, through the "New Homes Bonus" scheme.

42. The UK Government has strengthened security of tenure for people living on authorised local authority Traveller sites, giving them the same rights as those living on other types of mobile home site.

43. In Northern Ireland, the Roma community is mainly centred in Belfast and a number of actions have been taken to specifically target their needs. These include:

- Weekly Family Health Clinic with the Romanian Roma Community Association of Northern Ireland (RRCANI);
- Funding for Roma Health Liaison Officer and support worker (from the Roma community) to target women and children with a focus on registration with GPs (General Practitioners), liaison with the healthcare family, increasing awareness of services and improving attendance;
- Funding for a BME family support worker with a focus on Roma;
- Funding for family support programme in East Belfast for Hungarian and Slovak Roma;
- Support for Romanian Roma Employability Programme in Mediation NI (Childcare Costs);

[83] www.buildingsafercommunities.co.uk/justice-board.html.

[84] https://www.gov.uk/government/publications/reducing-inequalities-for-gypsies-and-travellers-progress-report.

- Support for RRCANI in accessing funding for Roma youth projects;
- Direct funding to RRCANI for mapping exercise of Roma families, international Roma day and Romanian National Day;
- Continuing to work in partnership with Glasgow City Council and Arad Municipality (Romania) in sharing best practice with an emphasis on children.

44. With regard to health services, the final new strategic framework for public health, "Making Life Better 2013–2023", was published in June 2014. It provides strategic direction for policies and actions to improve health and reduce health inequalities. This will require partnership working across Government, the statutory and community and voluntary sectors. In order to achieve the aims of better health and wellbeing for everyone and reduced inequalities in health the framework advocates as an overriding approach that account must be taken of the need for greater intensity of action for those with greater social, economic and health disadvantage. This will require action to improve universal services as well as more targeted services for those in greater need. Travellers are recognised amongst those population groups which face specific challenges to their health and wellbeing including vulnerability to certain conditions and to broader issues such as social exclusion. The Department of Health, Social Services and Public Safety (DHSSPS) and the Department of Health and Children in the Republic of Ireland launched in September 2010 the "All Ireland Traveller Health Study" (AITHS). The study, examined the health status and needs of all Travellers living in Ireland (North and South). Its findings have provided a framework for future work. A birth cohort follow-up report was published in September 2011; it was commissioned in 2007 and provided supporting data on Traveller mothers and infants for future policy developments. A Regional Travellers' Health & Wellbeing Forum was established in October 2010 to deliver the priorities in AITHS. Each year an annual Health and Social Wellbeing Thematic Action Plan has been developed reflecting the AITHS priorities and seeking to secure improved outcomes for Travellers. The 2014/15 plan has action measures structured around: Housing & Accommodation; Early Years support and Educational Attainment; Employment & Skills; Reducing stigma; Traveller Friendly Health and Social Care Services; Targeted programmes; Monitoring, evaluation and research; and Collaboration and Joint working.

45. With regard to housing, the Social Housing Selection Scheme in Northern Ireland is administered by the Northern Ireland Housing Executive. Under the Scheme all applicants are assessed on a points basis according to their housing need and ranked on a common waiting list in descending order. Offers of accommodation are made to applicants on the common waiting list, taking into account housing need as determined and the suitability of the accommodation for the particular applicant. Members of the Irish Traveller community are entitled to be assessed in the same manner as other members of the public.

46. Should a member of the Irish Traveller community seek Traveller specific accommodation, the Housing Executive has the statutory role (under article 28A of the Housing (Northern Ireland) Order 1983) for the provision of caravan sites for members of the Irish Traveller community. A number of housing associations also provide Grouped Housing Schemes (Group Housing is residential housing developments with additional facilities and amenities specifically designed to accommodate extended families of Travellers on a permanent basis). With regards to Irish Traveller sites, maintained and managed by the Housing Executive, the 2011 Caravans Act (NI) provides statutory protection and sets out the grounds on which a landlord may seek an order of possession. The Housing Executive carries out a five year Comprehensive Traveller Needs Assessment which determines a five year Traveller accommodation programme. All sites are constructed in line with existing Traveller site guidelines which are currently being updated by the Department for Social Development (the Northern Ireland Government Department responsible for housing policy) and are due for release in 2015. Previously the Housing

Executive has rolled out Traveller Cultural Awareness training to both staff and members of the local Housing Community Networks – its tenant representative groups.

47. The Housing Executive's Race Relations Officer represents the Housing Executive on the Multi Agency Roma Working Group. The aim of the Housing Executive's Race Relations Policy is: "To ensure that all Black and Minority Ethnic People in Northern Ireland can enjoy full and fair access to housing services and employment opportunities within the Housing Executive. It aims to support the promotion of good relations between and within ethnic groups and communities." Housing Executive staff can engage interpreters to provide easier access to services and thereby increase customer satisfaction and improve service delivery. Face to face interpreting in Romanian has been provided. Interpreters can accompany staff on visits and at interviews to explain clearly the purpose of any visits and reassure and advise the resident accordingly.

48. From 1 January 2014, all Bulgarian and Romanian nationals have had the same rights to access UK social benefits, including housing and homelessness assistance as other EEA (European Economic Area)/ EU nationals. Their right to access UK social benefits depends on their economic activity in the UK and such factors as whether they are currently in work or self-employed. Some Roma individuals in Northern Ireland are also from Slovakia, Hungary and the Czech Republic and they already had the same full rights as EEA/EU nationals.

49. Some issues around race relations have arisen and are mainly associated with the concentration and response to the Roma individuals and families living in South and East Belfast area. Current estimates range from 800 to 1,000 Roma individuals living in this area. Community groups have been actively working to build relationships and to encourage community cohesion between this group and the local community for over six years through a range of initiatives. A Roma Health and Housing Advocate has also been working part-time to include housing advice and support issues in her remit to ensure full and fair access to housing for this hard to reach group. The Northern Ireland Executive recognizes the need to take action to address the particularly severe disadvantages of both Roma and Irish Travellers and will establish a specific high-level task force to tackle the issues behind Roma/Traveller disadvantage and community tensions.

50. With regard to education, an open enrolment process provides all children, regardless of background, with equality of opportunity when applying for a funded place at an educational setting of their choice. A number of programmes are already in place to provide support for specific vulnerable groups, and this includes Travellers. The Traveller Education Support Service supports traveller children, young people and their families across a wide range of themes at all stages of school-age education. Additional funding is provided for traveller pupils, enrolled at a school, via the Common Funding Formula.

51. In Scotland, the Scottish Government recognizes Gypsy/Travellers as a distinct ethnic group and is working to develop an overarching strategy and action plan for Gypsy/Travellers, for publication in 2015; this is being overseen by a group of key stakeholders (Gypsy/Traveller Strategy Development Group), which includes members of the Gypsy/Traveller community. The overarching strategy and action plan will draw on the recommendations of the Scottish Parliament's Equal Opportunities Committee reports on *Gypsy/Travellers and Care* and *Where Gypsy/Travellers Live*. It will also take account of the ongoing work of the Gypsy/Traveller Site Working Group and the Scottish Traveller Education Review Group.

52. In Wales, the "Travelling to a Better Future: A Gypsy and Traveller Framework for Action and Delivery Plan" sets out the Welsh Government's vision for the inclusion of Gypsies and Travellers in Welsh society. It includes 17 objectives in the areas of accommodation, health, education, participation and other areas.

53. The Housing (Wales) Act 2014 introduces a statutory duty upon Local Authorities to provide Gypsy and Traveller sites where need is identified in Gypsy and Traveller Accommodation Assessments. For the first time, these assessments will be scrutinised by Welsh Ministers to ensure they have followed a consistent methodology.

54. The Mobile Homes (Wales) Act 2013 implements the ECtHR judgement in *Connors v. UK* (and later *Buckland v. UK*) by ensuring residents of Local Authority Gypsy and Traveller sites in Wales have proper security of tenure and rights and responsibilities captured in Pitch Agreements.

55. The draft Travelling to Better Health guidance sets out the Welsh Government's expectations for how Local Health Boards should ensure Gypsies and Travellers have access to health services, including periodic Health Needs Assessments to establish baseline health information.

Bermuda – age of consent

56. No measures for equalizing the age of consent are currently planned. The Criminal Code sets the age of consent at 16 between male and female, and at 18 between two males (sections 177 and 179).

British Indian Ocean Territory

57. The United Nations "Handbook on final clauses of multilateral treaties"[85] confirms that: "When expressing consent to be bound, the United Kingdom may declare in writing to the depositary to which, if any, of its territories the treaty will extend. If the instrument expressing consent to be bound refers only to the United Kingdom of Great Britain and Northern Ireland, it applies only to the metropolitan territory."

58. In the case of the ICCPR, the UK expressed its consent to extend the Covenant[86] *only* to nine permanently inhabited BOTs (Bermuda; Cayman Islands; Falkland Islands and dependencies; Gibraltar; Montserrat; Pitcairn Islands; St Helena and its dependencies; Turks and Caicos Islands; and (British) Virgin Islands), and to the three CDs (Bailiwick of Jersey; Bailiwick of Guernsey; and the Isle of Man).

59. In light of the above, the ICCPR has not been extended (and therefore is not applicable) to the British Indian Ocean Territory (BIOT). The UK Government therefore considers that the Committee's recommendation in respect of the BIOT goes beyond the Committee's remit, and that the BIOT should not be included in the UK's periodic reports under the ICCPR.

60. However, the UK Government would like to draw the Committee's attention to the fact that the BIOT has no permanent inhabitants. Members of the Armed Forces, officials and contractors in the Territory are merely temporary occupants without any right of residence. It is therefore unclear what benefit would be derived from extending the ICCPR to this territory.

61. With regard to the Chagossians, the UK Government would like to draw the Committee's attention to the judgment[87] of the House of Lords (the highest domestic court

[85] Treaty Section of the UN Office of Legal Affairs, *Handbook on final clauses of multilateral treaties*, p. 82.

[86] See *UK Treaties Online* at http://treaties.fco.gov.uk/treaties/treatyrecord.htm?tid=2535.

[87] *R (on the application of Bancoult) v. Secretary of State for Foreign and Commonwealth Affairs* [2008] UKHL 61.

at the time, now the UK Supreme Court) which overruled the decision in *Bancoult 2*[88] cited by the Committee; further, the ECtHR ruled[89] in 2012 that the Chagossians have already been fully compensated. These judgments notwithstanding, the UK Government stated that it will review its policy towards resettlement of the BIOT by the "Chagossians". To that end, an independent feasibility study of resettlement was completed in January 2015[90] and the UK Government is currently concluding the policy review. In addition, temporary access to the BIOT is being funded and facilitated by the BIOT Administration to allow former islanders to be brought back on "heritage" visits.

7. Criminal justice system statistics

62. The UK Government is closely monitoring the issue of race in the context of the criminal justice system (see for example NOMS (National Offender Management Service) "annual offender equalities report 2013–2014"[91], and also the wider "Statistics on race and the criminal justice system 2012"[92]).

63. With regard to the use of stop and search powers, it should be noted that there was a decrease under the current UK Government since 2010/11. The UK Government also commissioned HM Inspectorate of Constabulary (HMIC) to conduct a thematic inspection on the use of the powers in 2012; the findings of the HMIC report[93] were of considerable concern. The UK Government launched a public consultation[94] on stop and search powers over the summer of 2013. The consultation generated an overwhelming public response with well over 5,000 people giving their views, including a high proportion of individuals from BME groups. The UK Government's response to the consultation includes a number of measures, such as:

- Introducing the "Best use of stop and search scheme"[95] to increase transparency, accountability and community involvement in the use of stop and search powers. All police forces are expected to be in compliance of the scheme by the end of November 2015;
- Revising Code A (Stop and Search)[96] under the Police and Criminal Evidence Act 1984 (PACE) to make clear what constitutes "reasonable grounds for suspicion" which is the legal basis upon which police officers carry out the majority of stops.

64. With regard to the rates of arrest, the law, namely Code G[97] under PACE (which takes into account the anti-discrimination statutory requirements of the Equality Act 2010) remains the main point of reference for police officers on the use of their power of arrest. The Code makes clear that the arrest must be fully justified and that the police should consider if the necessary objectives of the arrest can be met by other less intrusive means.

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[88] *R (on the application of Bancoult) v. Secretary of State for Foreign and Commonwealth Affairs* [2006] EWHC 1038 (Admin).

[89] *Chagos Islanders v. United Kingdom* – 35622/04 [2012] ECHR 2094 (11 December 2012).

[90] A draft version of the study is available at https://www.gov.uk/government/speeches/publication-of-the-draft-biot-resettlement-feasibility-study.

[91] https://www.gov.uk/government/statistics/noms-annual-offender-equalities-report-2013-to-2014.

[92] https://www.gov.uk/government/statistics/statistics-on-race-and-the-criminal-justice-system-2012.

[93] www.justiceinspectorates.gov.uk/hmic/publication/stop-and-search-powers-20130709/.

[94] https://www.gov.uk/government/consultations/stop-and-search.

[95] https://www.gov.uk/government/publications/best-use-of-stop-and-search-scheme.

[96] https://www.gov.uk/government/publications/circular-0212014-police-and-criminal-evidence-act-1984-pace-codes-of-practice-revision-to-code-a-stop-and-search.

[97] https://www.gov.uk/government/publications/pace-code-g-2012.

Furthermore, the Equality Act 2010[98] makes it unlawful for police officers to discriminate against, harass or victimize any person on the grounds of the "protected characteristics" of age, disability, gender reassignment, race, religion or belief, sex and sexual orientation, marriage and civil partnership, pregnancy and maternity when using their powers.

65. With regard to sentencing, it should be noted that the sentencing framework and sentencing guidelines, including all aggravating and mitigating factors, are entirely neutral and applicable to all offenders. Furthermore, sentencing is entirely a matter for the independent judiciary taking into account all the circumstances of the offence and the offender. So there may be many different factors which influence sentencing (and therefore the number of BME prisoners and offenders on probation) including the nature and seriousness of the offence committed and whether the offender entered a guilty plea.

66. With regard to the number of prisoners and offenders on probation from BME groups, it should be noted that the current UK Government has been consistently pursuing a policy of reducing reoffending and improving rehabilitation. An overview of this policy can be found in the UK's Mid Term Report 2014 under the UPR[99]. Furthermore, the Youth Justice Board is: (a) working with the College of Policing to influence the developments of stop and search practice as it is applied to children and young people; and (b) supporting Youth Offending Teams and custodial establishments, where there is evidence of BME overrepresentation, to develop an action plan to address the issue.

8. Stop and search powers in Northern Ireland

67. The purpose of the Justice and Security (Northern Ireland) Act 2007[100] (2007 Act) was to deliver a number of measures which were deemed necessary to deliver a commitment to security normalization in Northern Ireland, whilst at the same time ensuring that the necessary powers were in place to protect the public. The 2007 Act powers are Northern Ireland-specific, and remain necessary and proportionate to protect the public in the face of an ongoing security threat in Northern Ireland. The 2007 Act contains powers, in Schedule 3, allowing the police to stop and search a person for unlawfully held munitions or wireless apparatus in a public place without reasonable suspicion. An authorization procedure for use of these powers was introduced in 2012 by the Protection of Freedoms Act 2012[101]. The authorization provisions now in the 2007 Act mean that stop and search without suspicion powers may only be exercised if a senior police officer of at least Assistant Chief Constable (ACC) rank has first authorised the use of the powers in a specified area and for a limited duration – up to a maximum of 14 days. In order to authorize the use of the power, the ACC must: (a) have a reasonable suspicion that the safety of any persons might be endangered by the use of munitions or wireless apparatus; and (b) reasonably consider that the authorization is necessary to prevent such danger, and that the specified area is no greater, and the duration of the authorization no longer, than is necessary to prevent such danger. This authorization has to then be confirmed by the Secretary of State, if it is to last for longer than 48 hours.

68. The Code of Practice for the Exercise of Powers in 2007 Act was brought into force in 2013, providing further safeguards and guidance on how police officers' discretion should be exercised in exercising these powers[102]. The authorization form also contains

[98] www.legislation.gov.uk/ukpga/2010/15/contents.

[99] Pp. 111–115 of Mid Term Report 2014.

[100] www.legislation.gov.uk/ukpga/2007/6/contents.

[101] www.legislation.gov.uk/ukpga/2012/9/contents.

[102] https://www.gov.uk/government/publications/code-of-practice-for-the-exercise-of-powers-in-the-justice-and-security-northern-ireland-act-2007.

detailed guidance on the matters to be considered and completed before an authorization may be given. Further, the PSNI are under an overriding duty under section 31A of the Police (Northern Ireland) Act 2000 to carry out their functions with the aim of "securing the support of" and acting in co-operation with" the local community; and the PSNI must be guided by the statutory Code of Ethics issued under section 52 of that Act.

69. The 2007 Act powers are subject to strong external scrutiny and oversight, principally from the Independent Reviewer of the 2007 Act but also from the Northern Ireland Policing Board (NIPB) and the Police Ombudsman for Northern Ireland (PONI) to whom complaints can be made. The Independent Reviewer is appointed by the Secretary of State and is required to examine the operation of sections 21 to 32 and Schedules 3 and 4 of the 2007 Act which cover a range of powers including stop and search and stop and question. The Reviewer prepares an annual report for the Secretary of State to lay before Parliament, and in that report, the Reviewer is required to make a judgement on whether there is a case for continuing the powers unchanged for a further year.

70. Separately, the NIPB has a statutory duty to monitor the performance of the PSNI in complying with the HRA. The Board's Performance Committee carries out this monitoring work which results in public annual reports[103].

Evaluation and monitoring of stop and search powers in Scotland

71. Stop and search is one of a range of tactics used by Police Scotland to keep Scotland's streets safe and, used proportionately and appropriately, is an effective tool. Police Scotland is committed to complying with the requirements set out by legislation including the Police and Fire Reform (Scotland) Act 2012, the HRA, the Equality Act 2010, and also the Code of Ethics and Police Values[104] – whereby stop and search must be carried out with integrity, fairness and respect. The Scottish Government welcomes the fact that Police Scotland is undertaking a number of initiatives to improve stop and search processes and data recording, and is actively engaging with stakeholders. The Scottish Government is clear that there should be proportionate and effective scrutiny and challenge by the relevant bodies where issues of public interest are concerned, and welcomed the work being carried out by the Scottish Police Authority and HM Inspectorate of Constabulary in Scotland, who are playing a key role in ensuring that stop and search processes are subject to the appropriate oversight.

72. Integrity, fairness and respect are central to Police Scotland's professional ethics and values. Police Scotland training has been reviewed to ensure that human rights, organizational values and the Code of Ethics must be considered in the design specification of every course. New recruits receive training on the ethics and values, as well as on both the ECHR and the HRA. In addition, all police officers are required to make the "Declaration of Constable", which includes a commitment to uphold fundamental human rights. These principles have been incorporated into central functions, such as Standard Operating Procedures and Operational Orders, and the personal development review process has been revised to ensure that the values and code of ethics are central tenets for development and progression. A presentation on the code of ethics and values, which includes the protection of human rights, has been delivered to senior management teams for cascading to all police officers and staff, and all staff have been sent a pocket guide on the values, code of ethics and the National Decision-Making Model.

[103] www.nipolicingboard.org.uk/index/our-work/content-humanrights.htm.
[104] www.scotland.police.uk/about-us/code-of-ethics-for-policing-in-scotland/.

73. In relation to stop and search, Probationer Constables are trained to Level One of the National Search Learning Programme. Eight hours of theory and practical training is allocated to searching people, and covers the three principles of stop and search (public trust and confidence, legality, and effectiveness of the search), officer and public safety, human rights considerations and dignity of the searched person. It also includes information on the four levels of search, from "initial" to "intimate", as well as the appropriate procedure for, and use of, "consensual" searches. The police powers to search people are explained and taught in relation to both Common Law and Statute Law, and guidance is given on considerations which may give rise to "reasonable cause to suspect" in order to search an individual. Officers are advised that, where such circumstances arise, they are personally responsible for justifying any searches they undertake. During training, officers observe a demonstration of a search, and are themselves observed carrying out a search so that instructors can provide additional advice and information, to ensure that officers are competent in the practical elements of searching and have the appropriate levels of knowledge concerning their powers when considering searching a person. Furthermore, all officers have access to an online Stop Search toolkit.

9. Diversity in the civil service and the judiciary

74. The UK Government compares favourably to other organizations across the public and private sector in terms of the diversity of its workforce[105]: over half of the staff (53%) are women, 10% are from a minority ethnic background, and nearly 9% declare a disability. Since 1996, the percentage of women in the SCS (Senior Civil Service) has more than doubled, with women now representing more than a third of the SCS (37.9%). This compares favourably with senior women in other organizations (female director representation in FTSE 100, 20.7%). The proportion of minority ethnic civil servants has risen from 5.7% in 1997 to 10.1% in March 2014 and is broadly in line with the current economically active population (11.4%). The proportion of civil servants declaring a disability has risen from 8.3% in 2012 to 8.8% in 2014. Over time, representation of disabled people in the Civil Service has almost trebled from 3.1% in 2001. These figures can be compared to the economic active population of people declaring a disability, which is currently 11%. Furthermore, 48.8% of Fast Streamers are women, 11.5% declare a minority ethnic background and 11.9% were disabled; and on the Fast Track Apprenticeship programme, 43% are women and 16% declare a minority ethnic background.

75. With regard to the judiciary in England and Wales, see paragraphs 35–39 above. Further, it should be noted that the UK Government has introduced, through the Crime and Courts Act 2013[106], salaried part time working in the High Court and above as a means of increasing judicial diversity through flexible working. This should act as a means of encouraging more women to apply for higher office as working conditions have previously acted as a deterrent for some female candidates. The statutory duty on the Lord Chancellor to increase diversity and the Equal Merit Provision outlined in point 11 above are also applicable to diversity in respect of women. In the Tribunals, 43.0% of judicial office holders (legal posts) are women and in the courts, 24.5% are women[107]. There have been improvements in the number of female appointments. Analysis of trends[108] in the diversity of applicants and recommendations made by the Judicial Appointments Commission (JAC)

[105] Source: Civil Service Diversity and Inclusion Team (https://www.gov.uk/government/organisations/civil-service/about/equality-and-diversity).

[106] www.legislation.gov.uk/ukpga/2013/22/contents/enacted.

[107] https://www.judiciary.gov.uk/publications/judicial-diversity-statistics-2014/.

[108] https://jac.judiciary.gov.uk/sites/default/files/sync/basic_page/trend_analysis_december_2014.pdf.

indicate that compared to applications made in the 9 years before the formation of the JAC in 2006, there has been a statistically significant increase in the number of applications from women candidates for all court posts. The number of recommended candidates who are women has increased for all court posts, with a statistically significant increase in four out of seven posts. The UK Government recognizes that there is still some way to go especially in the higher courts. Along with the JAC, the Judiciary and legal professions, the UK Government will continue to work on improving diversity.

76. In Northern Ireland, the Northern Ireland Civil Service (NICS) carries out comprehensive reviews into the gender profile of its workforce and acknowledges that within some occupations and grades women or men are under-represented compared to similar occupations in the rest of the economically active working population in Northern Ireland. The NICS is committed to appointing people on merit and takes appropriate lawful affirmative action measures to attract greater numbers of the under-represented gender to apply for posts. Recruitment methods are reviewed to ensure that, as far as is possible they are free from bias and afford both genders equality of opportunity. A strategic objective in the "The Gender Equality Strategy 2006–16" is to achieve a gender balance on all government appointed committees, boards and other relevant official bodies. A new Gender Equality Strategy is under development, with aims to: bridge gaps in statistical coverage in relation to private sector decision-making grades, or for other vocations; adopt a positive approach to identifying, understanding and responding to the difference needs of women and men; develop actions to address under representation including re-considering policies that act as barriers; and ensure that gender stereotypes do not influence policy development and decision making processes.

77. In Scotland, a number of measures have been introduced by the Scottish Government to increase the representation of women (including in the Civil Service), such as:

- The Women's Employment Summit in 2012 which aimed to help women achieve their full potential in the Scottish labour market; the Summit's actions are being implemented by a Strategic Group on Women and Work and the Cross-Government Group on Occupational Segregation;
- From August 2014, "early learning and childcare" was increased from 475 to a minimum of 600 hours per year for 3–4 year olds, and extended to 15% of Scotland's most vulnerable and disadvantaged 2 year olds (increasing to 27% from August 2015)[109];
- Provision of an additional £200,000 to the Poverty Alliance to increase from 70 to at least 150 the number of accredited living wage employers in Scotland[110];
- Provision of £250,000 funding (over two years) towards the CareerWise initiative which started in April 2013 and aims to encourage more young women to consider careers in the fields of science, technology and engineering;
- On 15 December 2014, publication of an implementation plan for the recommendations made by the Commission for Developing Young Scotland's Workforce[111] which included improving the participation of women;

[109] www.scotland.gov.uk/Topics/People/Young-People/legislation

[110] www.scotland.gov.uk/Publications/2014/11/6336

[111] www.scotland.gov.uk/Topics/Education/edandtrainingforyoungple/commission developingscotlandsyoungworkforce

- Provision of £601,000 to Equate Scotland (2012–15) to support the recruitment, retention, return and success of women where they are significantly under-represented, and of £615,000 to Close the Gap (2012–15) to change employment practices and workplace cultures to support gender equality and tackle the pay gap.

78. It should also be noted that Scottish Cabinet is gender balanced and the *One Scotland – Programme for Government 2014–15*[112] (published 26 November 2014) includes a commitment to encourage the public, third and private sectors to set a voluntary target for gender balance on their boards of 50:50 by 2020. With regard to the civil service, the Scottish Government actively seeks applications from women, and is exploring ways to increase their representation through, for example, the "Women on Board; Quality through Diversity" event, and the "Public Boards and Corporate Diversity Programme Board"[113], Graduate Development Programme, Realising Potential Programme and Graduate Internship schemes.

79. With regard to the Scottish judiciary, the number of women in the judiciary[114] has increased since 1998 when there was only one female judge and twelve female sheriffs within the ranks of the full-time judiciary. By 2002, the numbers had almost doubled and since 2002 there has been a significant increase in the percentage of female senators (9% to 26%), however there is still work to be done in other areas.

80. In Wales, the overall gender balance within the Welsh Government[115] is 58% women and 42% men. Whilst we do not have an issue in terms of attracting women into the organization, there are clearly barriers which stop them progressing into more senior roles. To address this, we are about to launch a development programme aimed at high potential women in the Executive Band to assist them into promotion into the Senior Civil Service.

81. See also paragraphs 35–39 above.

Gender pay gap

82. The gender pay gap in the UK has been falling steadily for many years, and is now the lowest on record, with women under 40 (working full-time) actually earning more than men in the same age bracket. In particular[116]: the median gender pay gap has fallen to 19.1% (includes full and part-time workers); and the gender pay gap for full-time workers is down to 9.4%.

83. The UK Government has introduced both legislative and voluntary measures to reduce the gender pay gap. On 10 March 2015, an amendment was made to the Small Business, Enterprise and Employment Bill that will implement section 78 of the Equality Act 2010. This will require the introduction of mandatory gender reporting for larger companies.

84. The UK Government continues to make progress working with the private sector to support female talent in the workplace through initiatives such as "Think, Act, Report" whereby companies commit to: *thinking* about gender equality in their workforce – collecting and considering data from across their company; *acting* where they have found a need to; and then *reporting* their progress. There are already tangible results: 270 companies covering over 2.5 million employees are signed and committed to the principles

[112] www.scotland.gov.uk/Publications/2014/11/6336.

[113] www.scotland.gov.uk/Topics/People/Equality/PublicBoardsCorporateDiversityProg/Documents.

[114] Source: Scottish Government.

[115] Source: Welsh Government.

[116] www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2014-provisional-results/stb-ashe-statistical-bulletin-2014.html#tab-Gender-pay-differences.

that 'Think Act Report' embodies; the vast majority of signed up companies are already taking action to encourage more female talent.

85. Working closely with the Women's Business Council, the UK Government has also put in place long-term policies, including: encouraging girls to enter a wider range of careers, including those in "STEM" subjects (Science, Technology, Engineering, Maths); transforming the workplace to give women a fair chance to get to the top through initiatives to promote more female role models, modernize recruitment practices, and bring about corporate culture change; promoting greater pay transparency, to ensure women receive equal pay for equal work.

86. As a result of the Equality Act 2010 (Equal Pay Audits) Regulations 2014 which came into force on 1 October 2014, those companies that break the law and are found guilty at the Employment Tribunal on an equal pay case, will now be subject to tougher sanctions (such as, being ordered to carry out a pay audit, where there is likely to be systemic discrimination).

87. In Northern Ireland, the Northern Ireland Civil Service (NICS) has implemented a Comprehensive Pay and Grading Review to address issues of equal pay. Official statistics[117] published on 18 December 2014 show that differences between male and female pay in the NICS has continued to narrow as a result of this action.

88. In Scotland, the Fair Work Convention is designed to encourage dialogue between unions, employers, public sector bodies and Government. Women tend to work in low pay sectors and the Convention will develop, promote and sustain a fair employment framework for Scotland, including through providing evidence-based recommendations on minimum wage rates and policies that help as many low-paid workers as possible and contribute to increased sustainable economic growth. The Scottish Government's public sector pay policies continue to require public bodies to ensure that pay is fair and non-discriminatory, and support work to raise awareness and encourage action by employees and employers to tackle the causes of pay inequality and to close that gap.

89. In Wales, the Welsh Government introduced the public sector equality duty to address pay and employment differences and specifically gender pay differences. This was introduced under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

90. All public sector employers in Wales with more than 150 employees are also required to report annually, not just on gender pay gaps, but on the gender disparities in grade, occupation and different working patterns between men and women, that produce disparities in pay. Welsh Ministers have a duty to publish a report on how devolved public authorities in Wales are meeting their public sector equality duty. The first report will be published by 31 December 2014 and every four years thereafter. The report will assess progress in relation to the requirements of the duty, highlight successful outcomes and identify barriers to implementation.

91. Furthermore, the project "Women Adding Value to the Economy" (WAVE) is funded by the European Social Fund through the Welsh Government and the project partners (the University of South Wales, Cardiff University and The Women's Workshop) until June 2015. The WAVE team at Cardiff University is mapping the association between gender, occupations, contract types and pay in Wales. The team works directly with willing and committed large employers to analyse gender pay gaps, offer advice on action, and are sharing this knowledge with a wide group of employers throughout Wales, so they can tackle the causes of gender pay gaps in their own organizations. On 22 September 2014,

[117] *Source*: Northern Ireland Executive.

WAVE launched the Equal Pay Barometer. This on-line search tool shows the jobs that men and women do, whether full or part time, how much they earn on average in those roles and where gender pay gaps exist. The aim of this barometer is to enable people to see where gender pay gaps exist and to encourage women to consider less traditional career paths.

92. See also the UK's Mid Term Report 2014 under the UPR[118].

Legacy of the conflict in Northern Ireland

93. The situation in Northern Ireland as defined in international law has never been considered to be an armed conflict, and applying the provisions of Security Council resolution 1325 (2000)[119] in respect of Northern Ireland would not therefore be appropriate. However the UK Government considers that some aspects of this resolution are relevant to Northern Ireland, such as those relating to the participation of women in public and political life. The UK Government will continue to support the increase in the representation of women in Northern Ireland in public and political life.

10. Combating VAWG

94. VAWG is an unacceptable crime that the UK is committed to ending.

95. The strategy, published on 25 November 2010, "Call to End Violence Against Women and Girls"[120], set out the UK Government's ambition guided by four key principles to combat VAWG: preventing violence from happening in the first place; providing adequate services for victims; working in partnership; and reducing risk and bringing perpetrators to justice. To support the implementation of the strategy, annual action plans [121] have been produced in each of the past four years. The recent Progress Report, published on 8 March 2015[122], outlines what has been done over the past five years to end these serious crimes. The UK Government has:

- Ring-fenced nearly £40 million of stable funding for specialist support services and national helplines until 2015;
- Criminalised forced marriage (see for example the Anti-Social Behaviour, Crime and Policing Act 2014[123]), and introduced two new stalking offences;
- Rolled out "Domestic Violence Protection Orders" (DVPOs) and the "Domestic Violence Disclosure Scheme" (DVDS) across England and Wales. DVPOs are a new power that fills a "gap" in providing protection to victims by enabling the police and magistrates courts to put in place protection in the immediate aftermath of a domestic violence incident; the DVDS (also known as "Clare's Law") introduces recognised and consistent processes to enable the police to disclose to the public information about previous violent offending by a new or existing partner where this may help protect them from further violent offending;
- Introduced "Domestic Homicide Reviews" in April 2011 so that local areas and agencies identify lessons learned to help to prevent future homicides and VAWG;

[118] Pp. 79–81 of Mid Term Report 2014.
[119] www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1325(2000).
[120] https://www.gov.uk/government/publications/call-to-end-violence-against-women-and-girls.
[121] https://www.gov.uk/government/collections/ending-violence-against-women-and-girls-action-plans.
[122] https://www.gov.uk/government/publications/call-to-end-violence-against-women-and-girls-progress-report-2010-to-2015.
[123] www.legislation.gov.uk/ukpga/2014/12/part/10.

- Commissioned the HM Inspectorate of Constabulary to undertake a review of the police response to domestic violence; work is in progress to address the findings from the review;
- Launched prevention campaigns to tackle rape and relationship abuse amongst teenagers;
- Introduced a National Rape Action Plan to ensure victims are given the help they deserve;
- Introduced a new domestic abuse offence of coercive and controlling behaviour in January 2015 (with a maximum penalty of five years imprisonment and a fine);
- Significantly increased efforts to end "female genital mutilation" (FGM), including by:
    - Hosting the first ever "Girl Summit"[124] in July 2014 where it launched a declaration condemning FGM, signed by over 300 faith leaders from all major faiths;
    - Setting up a specialist FGM unit[125];
    - Introducing a mandatory requirement for all regulated healthcare, social care professionals and teachers to report FGM to the police;
    - Introducing a new civil protection order to protect victims or potential victims of FGM.

96. In Northern Ireland, the aim is that effective services and support will be provided for all victims and witnesses, and perpetrators will be called to account. Key achievements and developments in Northern Ireland include:

- Multi-Agency Risk Assessment Conferences (MARACs) to discuss high risk domestic violence and abuse cases and put in place appropriate actions and resources to ensure the safety of victims and their children. From January 2010 to 30 November 2014, 7,752 cases have been discussed involving 10,131 children. Victim profile – women 6,024 (95.4%), men 284 (4.6%)[126];
- 24 Hour Domestic and Sexual Violence Helpline. The 24Hr Helpline, formerly a domestic violence helpline, has been extended to include sexual violence. Figures for 2013 – 2014[127] indicate that 50,335 calls were answered (765 male callers were supported by the Helpline team – 1.5% of calls answered);
- Routine questioning of pregnant women now takes place as part of antenatal care to ascertain if they have been/are victims of violence or abuse;
- The Rowan Sexual Assault Referral Centre (SARC) as Northern Ireland's first SARC. It is located at Antrim Area Hospital and opened in May 2013. Since then, 781 individuals have been referred into the Rowan for support services. The majority (87%) of individuals referred were female. 42% of those referred into the Rowan were children and young people[128];

[124] https://www.gov.uk/government/news/girl-summit-2014-outcomes-and-commitments.
[125] https://www.gov.uk/government/collections/female-genital-mutilation.
[126] *Source*: Northern Ireland Executive.
[127] *Source*: Northern Ireland Executive.
[128] *Source*: Northern Ireland Executive.

- A Regional Directory of services for victims and survivors of sexual violence has been published;
- From 2010–2013, the 'Helping Hands' programme, funded by the NI Department of Education and delivered by Women's Aid Federation NI, has trained over 500 teachers in 332 primary schools[129]. The programme assists teachers to understand the context and impact of domestic violence in the lives of children and their families and to develop preventative and early intervention strategies in relation to children who do not feel safe, specifically children affected by domestic violence;
- Powers allowing courts to impose a restraining order commenced on 30 September 2009, under the Domestic Violence Crime and Victims Act 2004, and offer further protection to those victims who are subject to harassment and domestic violence abuse;
- Changes to allow more people access to legal aid in order to apply for Non-Molestation Orders to get the protection from the courts they need for themselves and their families; these were made permanent from December 2011. The changes should ensure that no victim of domestic violence needs to worry about the financial implications of seeking a Non-Molestation Order;
- Police Domestic Abuse Officers and Public Protection Units. In 2008, Public Protection Units were established in each police district comprising: Child Abuse Investigation Unit; Domestic Abuse Unit; Sex Offender Management Unit; and Missing and Vulnerable Persons. This structure facilitates a more robust response to the various crimes through better intelligence gathering and sharing of information;
- Special measures to help vulnerable and intimidated witnesses to give their best possible evidence in court;
- Public Protection Arrangements for Northern Ireland (PPANI). The Criminal Justice (NI) Order 2008 provided the legislative powers for the Department of Justice to issue guidance to specified agencies for the purpose of assessing and managing the risk posed by certain offenders. Guidance was issued in October 2008 establishing the PPANI;
- Integrated Domestic Abuse Programme (IDAP) for offenders. Probation Board Northern Ireland commenced the roll out of the IDAP in 2009. It addresses court-mandated additional requirements;
- The five year "victim and witness strategy" published in June 2013; the first strategy since devolution with 51 key actions. Key elements of this strategy will include a new Victim Charter and a "victim and witness care unit";
- Provision of counselling services for victims of sexual violence over the age of 16;
- A new Victim Charter which took effect from 31 December 2014. It sets out the entitlements of victims of crime as they move through the Criminal Justice System, the standard of service that they can expect to receive and the support that is available. The Charter also makes clear the duties on service providers to meet these entitlements. The Charter will apply to all victims of crime.

97. The Northern Ireland Health and Social Care Interpreting Service was launched in 2004. Use of the service has grown year on year from 1,850 requests in 2004–05 to over

[129] *Source*: Northern Ireland Executive.

84,000 requests in 2013–14[130]. The Service now covers 35 languages and uses a central register of over 430 interpreters all of whom are either accredited to Level 4 of the Open College Network Northern Ireland or working towards it. Professional development programmes for interpreters have been developed in a number of complex areas such as: mental health; domestic violence; speech and language; dealing with traumatic experiences; and social work and maternity. "Working Well with Interpreters" training is delivered to students in the General Practitioner Module at Queens University Belfast to ensure that doctors will understand their legal responsibilities to provide an interpreter and also the inherent benefits of using a professionally trained and accredited interpreter with a patient who is not proficient in English as a first or second language.

98. In Scotland, the Scottish Government committed £34.5m in total for the period 2012–15 towards combating VAWG, and continues to work closely with key partners such as Police Scotland, Local Authorities, NHS Boards and voluntary sector organizations. In June 2014, the Scottish Government published "Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls"[131]. The Scottish Government has also committed to consulting in 2015 on a new specific offence of domestic abuse to better reflect the experience of victims, and also supported Police Scotland in developing their pilot "Disclosure Scheme for Domestic Abuse" which was launched on 25 November 2014.

99. In Wales, legislation aimed at tackling Violence against Women, Domestic Abuse and Sexual Violence (VAW, DA and SV) was introduced into the National Assembly for Wales in June 2014. The legislation will not seek to address criminal justice issues; rather it will complement existing criminal law, focussing on the social issues within the elements of prevention, protection and support.

100. The legislation will be supported by a number of key policy initiatives. These include work to ensure healthy relationship education is delivered in all schools and that schools take a "whole school approach" to addressing gender-based violence, domestic abuse and sexual violence, along with a "National Training Framework", which will provide consistent training for all key public sector and specialist service provider professionals across Wales. Good progress continues to be made on delivering the "10,000 Safer Lives Project". Between April 2011 and March 2014, over 7,000 individuals considered themselves to be safer or to feel safer as a result of the direct support from specialist organizations funded by the Welsh Government. A key achievement of the "10,000 Safe Lives Project" is that all 42 devolved public service organizations in Wales have now put in place or reviewed their workplace policies on DA, VAW and SV and work is under way in these organizations to promote and implement the policies. These policies, along with support from line managers and human resources departments, will help employees access advice and services to tackle difficult situations while remaining in work. The Welsh Government also increased the VAWDA revenue budget for 2014/2015 to £4 million from £3.6m. In the next financial year, total revenue and capital funding will reach £5m. This funding goes to partner organizations to deliver effective services across Wales, including a 24 hour domestic abuse and sexual violence helpline and healthy relationship lessons in schools. The funding is also used for awareness raising campaigns.

Bermuda – combating VAWG

101. The Department of Public Prosecutions in Bermuda recognizes the significance of cases of this nature and a prosecutor is assigned at the earliest possible stage to manage

[130] *Source*: Northern Ireland Executive.

[131] www.scotland.gov.uk/Publications/2014/06/7483.

domestic violence and sexual assault cases from initial charge through to disposition. Prosecutors and the witness care unit also train with law enforcement officers, victim service providers, and medical personnel in preparing and prosecuting sexual assault cases, to enable better support for the victims and to bring offenders to justice. In addition, Bermuda has the following legislation which deals with violence against women:

- Domestic Violence Act, which provides a civil remedy against abuse for persons in a domestic relationship regardless of marital status;
- Stalking Act, which prohibits stalking, provides for an increase in sanctions and penalties in instances of aggravating circumstances, and for the issuing of a protection order;
- Criminal Code, which contains a wide range of sexual assault offences with penal sanctions to reflect the varying degrees of seriousness associated with different types of assault. The legislation recognizes marital rape as an offence, dispenses with the need for corroboration in sexual offences, renders inadmissible (with some exceptions) any evidence of the complainant' sexual activity, renders inadmissible reputation evidence, and protects the privacy of the complainant from public hearing and publication.

102. The Bermuda Police Service (BPS) receives[132] on average about 70 incidents of a domestic nature a month of which about 15 involve some form of physical violence. The subjects are mostly male with the victims (95%) being female. Some of these incidents are in the form of verbal disputes, child custody conflicts, breaches of court orders and threatening behaviour. Incidents can also range from common assault to serious assaults and to sexual assault. The BPS continues to ensure that every Recruit Foundation Course (RFC) receives training in addressing domestic abuse. About 95% of all operational officers have received training in this regard. Additionally the BPS has a "Domestic Violence Policy" which was updated in 2014 and is a problem solving strategy for assisting victims of domestic abuse within the community. The BPS also has a Domestic Violence Liaison Officer whose duties include:

- Assisting victims of domestic violence in seeking a protection order, and more generally in court proceedings;
- Liaising with various stakeholders, including: Women's Resource Centre; Centre Against Abuse; Child and Family Services; Child and Family Protection; Residential Care; Day Care; Bermuda Youth Counselling Services; and the Sexual Assault Response Team (a team of specialists who care for victims of sexual assault, domestic violence, child abuse and neglect).

Combating VAWG in Northern Ireland

103. A new Strategy "Stopping domestic and sexual violence and abuse" will be published in spring 2015 and will respond to the needs of all victims/survivors of domestic and sexual violence and abuse. The Strategy will highlight the individual needs of different groups. An action plan will accompany the publication of the new strategy which will include taking forward further measures to ensure timely and adequate protection is available to victims. This will include exploring the possibility of introducing protection notices and orders in Northern Ireland similar to those recently introduced in England and Wales. Along with the UK Government, the Northern Ireland Executive is currently

[132] *Source*: Bermuda Government.

improving the law to tackle the problem of Female Genital Mutilation (the Serious Crime Bill is in fact currently before the UK Parliament).

104. See also paragraphs 94–100 above.

11. Anti-terrorism legislation

105. Section 1 of the Terrorism Act 2000[133] defines terrorism as the use or threat of action where it is designed to influence the Government or international organization (including foreign Governments) or to intimidate the public, or a section of the public, for the purposes of advancing a political, religious, racial or ideological cause. Whether any specific act falls within the definition of terrorism and whether any particular individual or group has committed an offence will depend on all of the facts and circumstances of the case. There are a number of safeguards governing the application of the statutory definition of terrorism. Decisions on prosecution are a matter for the Crown Prosecution Service who will ensure that prosecution is sought only in appropriate cases, that is, where there is sufficient evidence and it is in the public interest to do so. The UK Government is clear that the threat from terrorism is very serious, diverse and constantly changing. The UK Government has a duty to ensure that law enforcement agencies are able to counter terrorism effectively and keep the public safe in light of changing events. It is in this context, and in response to the emergence of new and diverse threats, that it is ever more important to have in place a flexible statutory framework — with appropriate safeguards — which is capable of tackling this threat. As such, any change to the definition of terrorism would require careful consideration to ensure that the UK operational capability to deal with such threats, and therefore the UK ability to protect the public, is not impeded.

106. Section 1 of the Terrorism Act 2006[134] provides for the offence of "encouragement" or "glorification" of acts of terrorism. This offence was introduced, in part, to give effect to the requirements of article 5 of the Council of Europe Convention on the Prevention of Terrorism, which requires States Parties to the Convention to have an offence of "public provocation to commit a terrorist offence". The offence applies to statements likely to be understood as a direct or indirect encouragement or inducement to the commission, preparation or instigation of terrorism (or where an individual is reckless as to it having that effect). This offence is necessary in order to combat those who seek to create, either directly or indirectly, a climate in which terrorism is more likely to flourish. The Security Council also unanimously repudiated in resolution 1624 (2005) "attempts at the justification or glorification of terrorist acts that may incite further terrorist acts"[135]. The UK Government remains therefore of the view that the offence remains necessary and proportionate.

107. Finally, it should be noted that the above offences have been used sparingly; the UK Government does not consider that they directly or indirectly undermine freedom of speech. In any event, the UK Government continues to keep under review the suite of available tools and powers necessary to counter the terrorist threat.

Response to the Independent Reviewer of Terrorism Legislation

108. In July 2014[136], the Independent Reviewer of Terrorism Legislation, David Anderson QC, recommended a number of changes in respect of current counter-terrorism legislation. He suggested that certain pieces of counter-terrorism legislation be added to the

[133] www.legislation.gov.uk/ukpga/2000/11/section/1.
[134] www.legislation.gov.uk/ukpga/2006/11/section/1.
[135] www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1624(2005).
[136] https://terrorismlegislationreviewer.independent.gov.uk/the-terrorism-acts-in-2013-july-2014/.

Independent Reviewer's statutory remit and recommended that there should be increased resource for the Independent Reviewer's role. These recommendations also included replacing the current system of annual review of four specific Acts with a more flexible system. The Counter-Terrorism and Security Act 2015[137] provides the Independent Reviewer with additional capacity in the form of a new Privacy and Civil Liberties Board. This Board will ensure that the Independent Reviewer obtains the additional assistance and support required, and will further provide assurance to the public that the UK's counter-terrorism arrangements strike the right balance between the threat faced by the UK from terrorism and respect for privacy and civil liberties. A public consultation on the proposal for the UK Privacy and Civil Liberties Board was published on 17 December 2014 and closed on 30 January 2015[138]. The UK Government is currently considering the Independent Reviewer's recommendations in detail and will formally respond to his report in due course.

Anti-terrorism legislation – effective remedies

109. In circumstances where individuals believe that their rights have been unlawfully violated in the contest of counter-terrorism activities, they can already challenge this, including by seeking redress through the courts. For an overview of people's access to various remedies, see the UK Government's portal[139].

12. Addressing the suicide rates

110. In Northern Ireland, the "Protect Life Strategy and Action Plan" was published in June 2012. With a hugely marked differential in suicide rates between deprived and non-deprived areas, particularly for males in the 15 to 45 age group[140], it is considered that reducing this disparity has the best potential to save lives. A wide range of services and initiatives have been put in place to address suicide, including:

- Community-led programmes and initiatives;
- Comprehensive social marketing campaigns to: encourage help-seeking; raise awareness of suicide and positive mental health; and reduce stigma associated with suicide and mental health;
- Lifeline and associated support services;
- The Card Before You Leave protocol at Accidents & Emergencies (A&E) sites;
- Local research into suicide;
- Bereavement support services;
- Training on suicide/mental health awareness;
- Deliberate Self Harm Registry in A&E Units;
- Development of community emergency response plans;
- Programmes targeted at vulnerable young men;
- Reporting guidelines for the media and ongoing media monitoring;
- Enhanced mental health crisis intervention services;

[137] www.legislation.gov.uk/ukpga/2015/6/contents/enacted.
[138] https://www.gov.uk/government/consultations/privacy-and-civil-liberties-board.
[139] https://www.gov.uk/browse/justice/rights.
[140] *Source*: Northern Ireland Executive.

- Suicide prevention procedures at psychiatric in-patient facilities, and counselling.

111. These services are supported by annual investment of £6.7m under the "Protect Life Strategy" and by funding from mainstream mental health services. In addition, under the Ministerial Co-ordination Group on Suicide Prevention, work has been initiated to involve sporting, cultural, and rural bodies in suicide prevention. Efforts to reduce substance misuse, improve community safety and cohesion, enhance safer custody, improve educational attainment, incorporate emotional wellbeing into the school curriculum, reduce bullying (including cyber bullying) and domestic violence, and strengthen families also contribute to addressing suicide.

112. In Scotland, the suicide rate fell by 19% during the period covered by the Scottish Government's "Choose Life" Strategy (2002 to 2013)[141]. The Strategy involved collaboration between a number of partners; suicide prevention awareness training in NHS frontline services and other sectors; measures to raise public awareness of suicide and its prevention (including work to address stigma relating to suicide); the introduction of local suicide prevention plans in all 32 local authority areas; and the systematic gathering of evidence about factors which can be related to suicide. Additional measures include: tackling problem drinking through "alcohol brief interventions" (ABIs); increasing access to treatment for depression in primary care settings; improving access to psychological therapies; raising awareness of appropriate sources of support for people experiencing depression or anxiety, including GPs and telephone helplines. The Scottish Government's "Suicide Prevention Strategy 2013–16"[142] (published on 3 December 2013) focuses on five themes of work in communities and services, with 11 specific commitments aimed at delivering better outcomes for people who are suicidal and who come to services, for their families and carers, and for those not in contact with services, and also to improve knowledge of what works in this field. The key themes are: responding to people in distress; talking about suicide; improving the NHS response to suicide; developing the evidence base; and supporting change and improvement. A Suicide Prevention Strategy Implementation Group, led by the Scottish Government and involving a range of stakeholders, is providing governance for this evidence-led strategy.

113. For an overview of the measures taken by the UK to address the suicide rate, please see the UK sixth periodic report under the ICESCR[143].

Addressing suicide in prisons

114. Every self-inflicted death is a tragedy and the UK Government makes strenuous efforts to learn from each one. The rise in the number of self-inflicted deaths in prison in England and Wales has been very concerning and the UK Government has been working hard to understand the reasons, with additional dedicated safer custody staff provided to offer further support to prisons and share good practice. Young adults are a particularly challenging and vulnerable group, and that is why the UK Government commissioned an independent review into the deaths of 18–24 year-olds in prison custody[144]. Reducing the number of self-inflicted deaths in prisons is a top priority. Staff are providing support to many vulnerable prisoners and frequently save lives through timely intervention. It is too simplistic to attribute the rise in self-inflicted deaths to staffing reductions or benchmarking. The rise has occurred in contracted prisons, which have not been subject to those initiatives, as well as in public sector prisons, and in prisons that have and have not

[141] www.scotland.gov.uk/Topics/Health/Services/Mental-Health/Suicide-Self-Harm.
[142] www.scotland.gov.uk/Publications/2013/12/7616.
[143] Pp. 32–33 of E/C.12/GBR/6.
[144] http://iapdeathsincustody.independent.gov.uk/harris-review/.

completed the benchmarking process. Deaths have occurred in prisons with good and less good inspection ratings, and in prisons with various levels of crowding.

115. In Northern Ireland, the South Eastern Health and Social Care Trust has regional responsibility for prison healthcare and has developed prison services to include: an in house pharmacy service; a dedicated GP (General Practitioner) resource; a dedicated addictions team; and an established primary care and mental health pathway. Service improvement initiatives have been taken forward resulting in a dedicated "committals team" providing a keep safe screening on committal and a more comprehensive health screening within 72 hours of committal. The mental health pathway is based on the stepped care model providing a range of individual consultations alongside a range of programmes and group work. The mental health team include: consultant forensic psychiatrist; consultant and staff grade psychiatrists; cognitive behavioural therapists; dual diagnosis practitioner and occupational therapists. The Trust also contracts with voluntary sector providers including music therapy and "Adept/Start 360" who provide psycho-social interventions and rehabilitation programmes. Innovative programmes delivered by Trust's occupational therapists to address the specific needs of the female population include the development of a women's choir in the female prison. In regards to vulnerable prisoners, the Trust in partnership with the Northern Ireland Prison Service (NIPS), provide a range of programmes in the Donard centre at Maghaberry which has been effective in targeting services. The Trust is currently working with NIPS to address the recommendations from the report on safety of prisoners produced jointly by the Criminal Justice Inspection Northern Ireland and the Regulation and Quality Improvement Authority. This will result in further reform of prison healthcare services to address the issue of self harm and suicide prevention.

116. See also paragraphs 184–192 below.

Preventing deaths in custody in Scotland

117. All deaths in custody are initially investigated by the police and then the Scottish Prison Service (SPS) carries out a review to determine if there were any lessons to be learned or actions to be taken. Fatal Accident Inquiries (FAI) are mandatory for deaths that occur in legal custody, though the Lord Advocate is permitted to waive the necessity of holding FAI if he considers that the circumstances of the death have been adequately investigated during criminal proceedings. A team of senior SPS personnel with subject matter expertise, supported by representatives from the NHS, is currently reviewing the 2005 Suicide Risk Management Strategy. The reasons for the review are: the transfer of responsibility and accountability for provision of health services to prisoners from the SPS to NHS Health Boards in 2011; recommendations from recent FAI; and findings from SPS Audit and Assurance Services.

118. An analysis of responses to the Scottish Government's proposals for modernizing the legislation on FAI was published on 21 November 2014[145].

119. See also paragraphs 110–113 above.

Investigating deaths in mental health settings

120. In England and Wales, where the death is violent or unnatural, or of unknown cause, it is investigated by the coroner who is an independent judicial office holder appointed by a local council. If it is not possible to find out the causes of death from the post-mortem examination, or the death is found to be unnatural, or it occurred in State detention, the

[145] www.scotland.gov.uk/Publications/2014/11/2861.

coroner must hold an inquest (that is, a public hearing) as soon as possible. The coroner's decision (or conclusion at the end of the inquest) can be challenged in court. In addition, there is the Care Quality Commission (CQC) which is the independent regulator of health and social care services in England[146]. All providers of regulated activities are required by law to register with the CQC and to meet a set of registration requirements that set safety and quality standards in England. So any mental health service that falls under the definition of a regulated activity would be subject to CQC registration. The CQC uses various sources of intelligence to direct its inspection regime, including data on deaths of people receiving mental health services. The CQC has a range of enforcement actions that it can use where providers do not meet the registration requirements.

121. See also the UK's sixth periodic report under the ICESCR[147].

13. Paramilitary organizations in Northern Ireland

122. Twenty-one years have passed since the 1994 ceasefires in Northern Ireland. The security situation has been transformed over the last two decades and the vast majority of people are able to lead their lives unaffected by the current security threat. Paramilitary organizations in Northern Ireland are specified or proscribed by law, however residual elements and structures of these organizations still exist and can continue to draw upon varying degrees of support in some communities. Although the vast majority of the senior leadership of loyalist paramilitary groups remain committed to the peace process, individuals associated with them continue to be involved in crime. This takes various forms but includes extortion, intimidation and violence. In some cases they also seek to control a community's way of life both subtly and overtly. Paramilitarism in Northern Ireland is a complex problem which requires a multi-faceted response incorporating preventative economic and social initiatives in disaffected and deprived communities as well as restorative and regenerative measures and civil and criminal law enforcement, as appropriate. A wide range of devolved authorities work closely with the UK Government and the PSNI to deliver this approach. In addition to these paramilitary groups, a small number of disparate but dangerous dissident republican groups continue to reject the peace process and have demonstrated their intent to commit violent acts of terrorism. In recent years, the PSNI has taken the operational lead on law enforcement, delivering human rights compliant policing and criminal justice outcomes aimed at reducing the threat and keeping people safe. This has significantly impeded the activities of dissident republican groups. The UK Government is clear that terrorism will never prevail in Northern Ireland. The 2010 National Security Strategy[148] made tackling Northern Ireland related terrorism a tier one priority – the highest priority for the UK Government. The UK's strategic approach also involves working closely with the Republic of Ireland; co-operation has never been better, both politically and in security terms.

123. Through the Racial Equality Unit, the Northern Ireland Executive is working with various elements within communities to convey the damage inflicted by hate and intolerance on those communities and the potential long term consequences of hate.

Framework for dealing with conflict related deaths in Northern Ireland

124. The Criminal Justice Inspection Northern Ireland (CJINI) reported, in September 2014, that significant work had been undertaken within the Office of the Police

[146] www.cqc.org.uk/content/mental-health.

[147] Pp. 30–33 of E/C.12/GBR/6.

[148] https://www.gov.uk/government/publications/the-national-security-strategy-a-strong-britain-in-an-age-of-uncertainty.

Ombudsman for Northern Ireland (OPONI) to deal with historical cases and how they are investigated. Based on a range of evidence, inspectors concluded that the independence of the OPONI had been restored. The Northern Ireland Crime Survey, in its quarterly report up to September 2014, noted that 86% of respondents were confident that the Police Ombudsman was operationally independent[149]. Recently, the PSNI and the Police Ombudsman reached agreement over access to files in the investigation of complaints against the police, including a number of murder investigations. The Stormont House Agreement (SHA) provides the framework for a comprehensive approach to dealing with the past, including conflict-related deaths. The SHA builds on the existing interlocking structure of legacy-related mechanisms, and supports the development of arrangements to further streamline processes to reduce delay.

125. In terms of the number of outstanding investigations into conflict-related deaths, as at December 2014, there were[150]: 978 HET (Historical Enquiries Team) cases, 285 OPONI cases and 53 legacy inquests.

Inquiries Act 2005

126. In its report of 11 March 2014, the House of Lords Select Committee on the Inquiries Act 2005 made a number of recommendations to increase the accountability of government ministers and to limit their powers to act without the consent of the inquiry chair. In its response[151] of 30 June 2014, the UK Government accepted that inquiry chairs needed the assurance that they can act without HMG interference in the conduct of their investigations and deliberations. However, it did not believe that it was desirable for the Act to be amended to require Ministers to obtain the consent of the chair rather than consulting the chair before taking certain actions such as amending terms of reference or appointing inquiry panel members. In its experience, inquiry chairs and Ministers had worked well together in agreeing the details of how an inquiry is to be established. The UK Government also believed that Ministers must retain the power to issue restriction notices to prevent the disclosure of sensitive material. Ministers are best placed to understand the full significance of considerations such as national security and international relations and they make decisions accordingly in a way which cannot be expected of the inquiry chair.

Pat Finucane

127. The report of Sir Desmond de Silva QC entitled "Report of the Patrick Finucane Review" was published on 12 December 2012[152]. At that time the Prime Minister made a statement in which he acknowledged that the Report demonstrated there had been State collusion in the death of Mr. Finucane. The Prime Minister also apologised to the Finucane family stating "Collusion should never, ever happen. So on behalf of the Government — and the whole country — let me say once again to the Finucane family, I am deeply sorry".

128. The UK Government believes that the Review carried out by Sir Desmond de Silva QC was the best means of getting as much information as possible into the public domain expediently. As noted by Sir Desmond: "I have received the full and unequivocal cooperation of all relevant Departments and Agencies in carrying out my work. Although I had no statutory powers of compulsion I was given access to all of the evidence I sought, including highly sensitive intelligence files".

[149] *Source*: Northern Ireland Executive.

[150] *Source*: Northern Ireland Executive.

[151] https://www.gov.uk/government/publications/government-response-to-select-committee-post-legislative-scrutiny-of-the-inquiries-act-2005.

[152] https://www.gov.uk/government/publications/the-report-of-the-patrick-finucane-review.

14. Abortion legislation in Northern Ireland

129. The current law on abortion in Northern Ireland makes it an offence for a woman to have an unlawful abortion, or for any other person to carry out an unlawful abortion. It is also unlawful to procure any drugs or instruments for use in an abortion. However, it is case law regarding the interpretation by the courts of this legislation which has created the current framework for abortions in Northern Ireland. In summary, the courts have ruled that it is lawful to perform an operation for the termination of a pregnancy, where it is necessary to preserve the life of a woman, or where there is a risk of real and serious adverse effect on her physical or mental health, which is either long term or permanent. In other circumstances, it would be unlawful to perform such an operation.

130. The Northern Ireland Minister of Justice published a consultation paper on 8 October 2014 on the criminal law on abortion in cases of lethal foetal abnormality and sexual crime. The paper includes:

- Proposals to adjust the law to enable women to choose to have a pregnancy terminated in the event of a diagnosis of lethal abnormality of the foetus (that is, where a foetal condition has been assessed by medical practitioners as being incompatible with life and a clinical judgment has been made during pregnancy that there will be no medical intervention after birth because no treatment can be offered to improve the chances of survival). The paper also recommends that such judgements are taken by two medical practitioners;
- A discussion about whether termination should be an option for women who are pregnant as a result of a sexual crime, including rape or where incest is involved. However, given the complicated and complex issues involved in the area of sexual crime, the paper takes the opportunity to engage in policy development with key stakeholders and others, primarily to seek and hear views on how these very difficult areas might be developed, rather than recommending a proposal for a specific change to the law at this stage";
- That a provision on a right of conscientious objection should be considered for any legislative proposals arising from the consultation. If a change to the law is made to provide for terminations in non-life threatening circumstances, or to end pregnancy in cases of criminal sexual abuse, there is a need to consider whether a right of conscientious objection should apply specifically in these circumstances.

131. The public consultation period ran until 17 January 2015. Publication of a summary of responses and a policy response will be published as soon as possible. It is important to note that any resulting legislative proposals will have to be agreed by the Northern Ireland Executive before they are presented to the Northern Ireland Assembly and begin the legislative process by Assembly Bill.

132. See also the UK's follow up information to the Concluding Observations under the CEDAW[153].

15 Monitoring the use of tasers in England and Wales

133. The UK Government is clear that the use of force must be lawful, proportionate and necessary in all the circumstances. All police forces in England and Wales are subject to the requirements of the HRA, specifically the duty to act compatibly with the ECHR, and also the anti-discrimination provisions contained in the Equality Act 2010. Furthermore, under

[153] CEDAW/C/GBR/CO/7/Add.1.

section 3 of the Criminal Law Act 1967[154], the use of force for the prevention of crime and apprehension of offenders and those unlawfully at large must be "reasonable" in the circumstances.

134. It should also be noted that Taser was authorised by the UK Government for use by the police following a wide range of technical assessments and an independent medical statement. The process for authorizing less lethal weapons ensures that any such weapon meets a police defined operational requirement, and is supported by a comprehensive training package before a decision is taken to approve its use. Officers equipped with Taser are specially trained on its use, including assessments on decision making, scenario based incidents, and medical implications; they must then undergo annual refresher training courses as a minimum to retain their Taser weapon for operational use.

135. The UK Government routinely publishes data on the police use of Taser, in the interest of transparency and police accountability. The statistics on the use of Tasers by police across England and Wales are publicly available on the UK Government's portal[155]. The current trend is that the police use of Taser increased between 2009 and 2013 due to the roll out of Tasers across police forces.

Monitoring the use of tasers in Scotland

136. There is a wide range of scrutiny measures and oversight arrangements in place to hold the Chief Constable of Police Scotland to account for the actions that he takes and the decisions that he makes. These checks and balances include oversight by the Scottish Police Authority (SPA), which reports annually to the Scottish Parliament, HM Inspectorate of Constabulary in Scotland (HMICS), the Police and Investigations Review Commissioner (PIRC) and the Parliament's Justice Sub-Committee on Policing. The SPA and HMICS are currently playing a key role in reviewing Police Scotland's use of armed police. The Chief Constable is required to report to the PIRC any incident where any person serving with Police Scotland has used a firearm. The PIRC will then carry out an independent assessment and decide if a full investigation is required, making recommendations as necessary.

Use of Attenuating Energy Projectiles in Northern Ireland

137. There is a range of less lethal options available to the PSNI depending on the circumstances. The Attenuating Energy Projectile (AEP) will only be used where there is an immediate threat of loss of life or a serious injury. If less lethal alternatives were not available for deployment in serious incidents, it is most probable that conventional firearms would have to be discharged with a high probability of fatal consequences. The Police Ombudsman investigates all cases where AEPs are discharged. To date this year only one AEP has been discharged by the PSNI[156].

16. Treatment of detainees by UK personnel overseas

138. Allegations of unlawful activity arising from operations are routinely investigated by the Service Police Forces who are independent of the chain of command. Individuals may then be referred to either their Commanding Officer or the Director of Service Prosecutions who will then consider the charging of persons referred for offences under the Armed Forces Act 2006. A number of prosecutions have taken place in relation to Iraq and Afghanistan resulting in convictions. In 2010, the UK Government established the Iraq

[154] www.legislation.gov.uk/ukpga/1967/58/section/3.
[155] https://www.gov.uk/government/collections/use-of-taser-statistics.
[156] *Source*: Northern Ireland Executive.

Historic Allegations Team (IHAT) to investigate allegations of abuse and unlawful killing in Iraq. IHAT is currently investigating 53 allegations of unlawful death and 110 of mistreatment. IHAT's budget totals £57 million and its expected duration has recently been extended until 2019. Allegations of mistreatment in Afghanistan are referred to the relevant branch of the Service Police for investigation. In addition, the UK Government has established a process for identifying wider issues and systemic failings arising from UK military detention operations. On 7 July 2014, the UK Government published for the first time a report[157] on the results of the systemic issues reviews from Iraq and other military operations overseas.

139. The investigation by the Intelligence and Security Committee of Parliament (ISC) is under way. The UK Government has provided the Committee with the Security and Intelligence Agencies' written responses to the issues identified in the Detainee Inquiry report as well as the views of the independent Intelligence Services Commissioner on the Agencies' compliance with the published Consolidated Guidance for dealing with detainees held by other countries. The Committee also has access to all the material provided by the UK Government to the Detainee Inquiry. The ISC has indicated that its investigation will be completed in the next Parliament.

140. The criminal investigation into the allegations made in the two Libya cases is ongoing and is a matter for the Metropolitan Police Service.

141. The Al-Sweady public inquiry, which was established to investigate allegations that British Forces tortured and killed up to 20 Iraqis on 14–15 May 2004 and ill-treated nine others detained during fighting around the Danny Boy permanent vehicle checkpoint, reported on 17 December 2014[158]. During 169 days of hearings the Inquiry's Chairman, Sir Thayne Forbes, took oral evidence from 55 Iraqi witnesses, 222 current and former service personnel, and four expert witnesses. He also considered written witness statements by a further 328 witnesses. He has concluded that all of those killed or captured during the fighting on 14 May 2004 were active participants in a series of co-ordinated ambushes on British Forces by well-armed insurgents, and that the claims that some had been there for peaceful purposes were utterly false. He has also concluded that all of the Iraqis whose corpses were handed over to Iraqi authorities for burial on 15 May 2004 died on the battlefield, and that allegations that they had been captured alive and tortured were deliberate falsehoods. His report criticises a number of Iraqi witnesses for falsely claiming to have seen or spoken to some of these men after the battle, and Iraqi doctors for showing a wilful disregard for the truth when completing the death certificates. While the report does uphold some of the allegations of ill-treatment, it accepts that the Armed Forces have taken appropriate steps to correct virtually all of these since 2004, and consequently makes only a small number of recommendations for further improvements in relation to detainee handling.

142. With regard to the allegations about UK Special Forces personnel, it is the long standing policy of the UK Government not to comment on UK Special Forces.

143. See also the UK's Mid Term Report 2014 under the UPR[159].

[157] https://www.gov.uk/government/publications/review-of-systemic-issues-arising-from-military-operations-overseas.

[158] https://www.gov.uk/government/publications/al-sweady-inquiry-report.

[159] Pp. 32, **84–87**, 108–109, 159 of Mid Term Report 2014.

17. Offence of torture

144. Sections 134 (4) and (5) of the Criminal Justice Act 1988[160] have not been repealed and there are no plans to do so. The UK Government is of the view that domestic law is consistent with the UK obligations under the CAT, and the basis for this view has been set out in detail in its periodic review reports and examinations on the CAT. Chief amongst these is the fact that the 1988 Act has a broader definition of torture than the CAT; it includes all severe pain or suffering inflicted in the performance of duties, without any qualification as to the reasons for the conduct. Without any defence, this law could criminalize for example: mental anguish caused by imprisonment; any serious injury inflicted by a police officer in the prevention of a crime, even when the offender was injuring another person or attacking the police officer; the arrest of a suspect. Moreover, there is overlap between the defence of lawful authority, justification or excuse in the 1988 Act and the exception in article 1 of the CAT, which concerns lawful sanction.

18. New restraint system in immigration removals

145. With regard to the new system of restraint for managing people safely during immigration removals[161], overseas escort staff began training on 28 July 2014. All have been trained and switched to live operations as of 6 October 2014. Use of force under escort is monitored via a new reporting system which gathers a full range of information from techniques, point of journey the incident took place, duration of restraint as well as injuries. The new training system will be kept under review.

Restraint of young offenders

146. The UK Government agrees that restraint should only ever be used against young people as a last resort where it is absolutely necessary to do so and where no other form of intervention is possible or appropriate. MMPR (Managing and Minimizing Physical Restraint) is focused on reducing the need for using physical restraint as far as possible. Training is child–focused and focuses on de-escalation skills, as well as application of physical restraint techniques. The UK Government is clear that the use of pain-inducing techniques must be restricted to circumstances where it is necessary to protect a child or others from an immediate risk of serious physical harm. There are occasions when the behaviour of some young people is so challenging and violent that it is necessary to remove a young person from association with others in order to guarantee their safety and that of others. In such circumstances, careful limits are placed on the length of time for which young people can be separated and they cannot be segregated as a punishment.

147. MMPR is being rolled out in Secure Training Centres (STCs) and under-18 Young Offender Institutions (YOIs) across England and Wales. Data is being collected from all sites and the first official statistics on the use of MMPR were published in October 2014[162]. It is recognised that high quality training is essential for safer restraint. Under the MMPR, staff are required to attend twice the number of refresher courses per year as they did before MMPR.

148. In Northern Ireland, a restraint method is used in the Juvenile Justice Centre that is not reliant on inflicting pain. All staff working face to face with children are trained in talking strategies and de-escalation techniques to deal with difficult and challenging situations ensuring that restraint is only used as a last resort to prevent harm. There are

[160] www.legislation.gov.uk/ukpga/1988/33/section/134.

[161] https://www.gov.uk/government/speeches/new-system-of-restraint-for-managing-people-safely-during-immigration-removals.

[162] https://www.gov.uk/government/statistics/mmpr-data-march-2013-to-march-2014.

detailed policy and procedures relating to single separation and restraint dealing with levels of authorization and review. Restraint and single separation occurrences are monitored at a senior management level. The Attorney General for Northern Ireland is in the process of issuing guidance in accordance with international standards which among other justice issues covers physical restraint and single separation.

149. In Scotland, all Scottish Prison Service (SPS) staff who may come into contact with prisoners are trained to detect, deter, de-escalate through non-physical techniques (and, if necessary, protect themselves, prisoners and others from violent acts). The use of force will only be considered when all other means have been exhausted or are deemed unlikely to succeed. The Supervising Officer/Manager in Charge will continually carry out a dynamic risk assessment during any use of force and will consider de-escalation throughout. A review of the circumstances around the use of force will take place and, where appropriate, involve the individual. A full report will always be compiled and, if deemed appropriate, the use of a video recorder may be utilised during a planned use of force. Practice within residential childcare settings, the SPS and Police Scotland reflects that restraint should only be used as a last resort and should not be used as a form of punishment. The SPS "Use of Force Policy" recognizes that each prisoner is an individual with his/her own unique needs. Feedback from the Office of the Children's Commissioner was included in the "Use of Force Policy". "Pain compliance" techniques are not part of any training programmes used in residential or secure child care in Scotland. The Scottish Government's guidance "Holding Safely"[163] outlines the parameters for physically restraining a child (for example, it explains that the restraint must be limited to the act of holding the child for the shortest necessary time), and also encourages all services to develop plans for reducing the use of physical restraint. Care home staff do not use any kind of mechanical restraints on children in their care.

Mid Staffordshire NHS Foundation Trust inquiry

150. The UK Government's full response to Robert Francis QC's report on the Mid Staffordshire NHS Foundation Trust public inquiry was published in November 2013[164]. It should be noted that the UK Government put in place a series of individual projects to deliver improvements to the way health and social care complaints are handled to enable the care system to identify issues of poor care sooner and to learn lessons. These projects have been overseen by a "cross-system" Complaints Programme Board. The Board has a single, agreed work programme and a shared ambition to ensure complaints are handled effectively, with learning from them shared and acted upon locally and nationally for the benefit of patients, users of services, the public, their careers and relatives.

151. See also the UK's sixth periodic report under the ICESCR[165].

Addressing abuse in health and social care settings in Northern Ireland

152. The Regulation and Quality Improvement Authority (RQIA) is the independent body responsible for monitoring and inspecting the health and social care services in Northern Ireland. Nursing and residential care homes are required to comply with the Northern Ireland Executive's minimum care standards, and are inspected against these by the RQIA. The standards include requirements for protecting residents from abuse. The

[163] www.scotland.gov.uk/Topics/People/Young-People/protecting/lac/residentialcare/Publications/Holding-Safely.

[164] https://www.gov.uk/government/publications/mid-staffordshire-nhs-ft-public-inquiry-government-response.

[165] Pp. 32–33 of E/C.12/GBR/6.

Health and Social Care Trusts in Northern Ireland have "Local Adult Safeguarding Partnerships" to provide governance of adult protection services at a local level. The Northern Ireland Executive is currently consulting on a draft Adult Safeguarding Policy which seeks to improve outcomes for adults considered to be at risk of harm, by promoting preventive practice and robust protection responses where they are required. A "Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults" was introduced in 2009 and outlines the role and responsibilities of the respective agencies (including the PSNI) and provides guidance about joint working arrangements and investigation. A review of the protocol was carried out in 2011. All Health and Social Care agencies have whistle-blowing policies in place, to encourage notification of concerns, or actual evidence of abuse.

19. Addressing the abuse of children

153. The physical or sexual abuse of a child is an appalling crime.

154. The Children Act 1989 defines a child as "a person under the age of 18". In England and Wales, the criminal and civil law provides a comprehensive framework for protecting children. There is wide ranging guidance, including the statutory guidance "Working Together to Safeguard Children (2013)"[166] ("Working Together") that describes how local authorities should conduct assessments whenever there are concerns that a child is suffering harm. Multi-agency assessments and investigations should take place where appropriate and where crimes have been committed; the police, who share responsibility for protecting the child, should investigate any crime. Local Safeguarding Children Boards monitor the effectiveness of safeguarding arrangements in each local authority area (see "Working Together"). All looked-after children must have a care plan, based on an assessment of their individual needs including their safeguarding needs. This assessment should determine the most suitable placement for the child concerned, this could be with a foster carer or in a children's home. Care plans for looked-after children, must be regularly reviewed to check the child continues to receive appropriate care which safeguards them and promotes their welfare. Fostering services and children's homes caring for children looked after by local authorities must comply with extensive regulations and national minimum standards, including standards for the protection of children. These services are independently inspected. The inspectorate (Ofsted – Office for Standards in Education, Children's Services and Skills) has powers to intervene in response to any concern in how services keep children safe. Every looked-after child is also entitled to advocacy support, to help them make their views known about issues concerning their care. Local authorities must take children's wishes and feelings into account when planning their care and provide each looked-after child with age-appropriate information about their rights.

155. Finally, through the "National Group on Sexual Violence against Children and Vulnerable People", the UK Government is driving forward an ambitious programme of reform to urgently address the lessons learned from historic cases of sexual abuse and those emerging from current-day cases. The National Group's overarching aim is to create the long-lasting change necessary to better identify those at risk from sexual abuse, strengthen institutional resilience to sexual abuse and create a victim-focused culture within the police, health and children's services. In particular, the "This is Abuse" campaign, which has been running since 2010, is bringing the issue of peer-on-peer abuse out into the open and helping teenagers feel confident about challenging abuse when they see it. In addition, the UK Government is also supporting young people at risk of or suffering gang-related sexual violence or sexual exploitation through "Young People's Advocates"; 13 Advocates have

[166] https://www.gov.uk/government/publications/working-together-to-safeguard-children.

been funded across the country to provide direct support to young people who have been victims or who are at risk of sexual violence. They will work in the areas most affected by gangs and have an understanding of the specific risks associated with gang violence. The National Group published its first "progress report and action plan"[167] in July 2013, which include measures to prioritize action to prevent abuse happening in the first place, protect children online, make sure the police can identify and deal with problems and ensure victims are at the heart of the criminal justice system.

156. In Scotland, Police Scotland has dedicated national units to enable a more consistent approach to tackling and investigating crimes such as child abuse, and has specialist liaison officers to interact with victims of sexual crimes. The development of a "National Child Abuse Investigation Unit" was recently announced. On 27 October 2014, the Scottish Government responded to the action plan for the Scottish Human Rights Commission's "InterAction on Historic Abuse of Children in Care" process, and is currently planning a programme of engagement with survivors and organizations to review the "National Strategy for Survivors of Childhood Abuse" in 2015, and to look at what a "Survivor Support Fund" and commemoration (two of the commitments in the InterAction Plan) would look like. A National Confidential Forum (NCF) has been established through the Victims and Witnesses (Scotland) Act 2014, and was expected to start taking applications in January 2015. The NCF will give people who were placed as children in a residential care or health service the opportunity to share their experiences through a confidential, supportive and non-judgmental process. A public inquiry into historical abuse of children in care was announced on 17 December 2014. The terms of reference will be decided after a period of consultation with survivors, and this will be complementary to the work of the NCF.

Addressing the abuse of children in Northern Ireland

157. The Marshall Report on child sexual exploitation was received on 17 November 2014. It contained a wide range of recommendations to be taken forward by the Northern Ireland Department of Health, Social Services and Public Safety, the Department of Education, the Department of Justice (DOJ) and other Northern Ireland agencies/bodies. One of the key recommendations includes the establishment of a process for promoting and monitoring implementation of the report's recommendations and is being taken forward by the Department of Health, Social Services and Public Safety, with representation from the DOJ. The DOJ also has a working group in place to oversee those recommendations relevant to the Department and its associated bodies. The Victim Charter advises on compensation, where a person has been a victim of a violent crime. Compensation Orders may also be made by the Courts.

158. The Inquiry into Historical Institutional Abuse is ongoing. Its remit is to examine if there were systemic failings by the State or institutions in their duties towards children under 18 in their residential care between 1922 and 1995. The Inquiry's Chairperson has requested a one year extension to the Inquiry, meaning that oral hearings will continue until June 2016 with the Chairperson's report completed by January 2017.

St Helena – addressing sexual offences against children

159. St Helena has been developing arrangements for all vulnerable people, including children. Renewed efforts were placed on child safeguarding following recommendations arising from an independent review by the Lucy Faithful Foundation in 2013, and St Helena

[167] https://www.gov.uk/government/publications/sexual-violence-against-children-and-vulnerable-people-national-group.

developed a comprehensive child safeguarding action plan which is being led by the Safeguarding Board, chaired by the Deputy Governor. The Board is made up of the police, social workers, education workers, health workers, NGOs and the newly formed Safeguarding Directorate. St Helena Government has employed a number of professionals in these key agencies to improve safeguarding arrangements, and there has been new investment in training for front line staff. The multiagency working arrangements are developing well. Due to improved processes the island has seen an increase in referrals, investigations and prosecutions relating to sexual offences involving children and young people. More expert staff is being recruited to deal with the increase in referrals and the backlog of cases which need to be addressed. Current workloads are being investigated in line with normal police procedures. The St Helena Government is also looking at how cases were handled in the past, and are in the process of securing funding for additional support to review these cases and if necessary, take action. A training programme for all those who work with children is being developed and training has already begun in areas such as achieving best evidence (including a new interview suite), protective parenting and general awareness around safeguarding issues. There is also a public awareness campaign around Child Sexual Exploitation. Sasha Wass QC will be leading an independent inquiry into allegations about a conspiracy to cover up child abuse on the island; she is expected to report in late 2015.

Falkland (Scotland) – addressing the abuse of children

160. Six men have been arrested and charged with multiple complaints of physical and sexual abuse at the former St Ninian's School in Falkland, Fife in the 70s and 80s. This investigation remains live and ongoing.

Corporal punishment of children

161. The UK's view is that a mild smack does not constitute violence and that parents should not be criminalised for giving a mild smack to their child. For more details, please see the UK's Mid Term Report 2014 under the UPR[168].

20. Review of section 41 Terrorism Act 2000 in Northern Ireland

162. An update on this issue will be provided at the examination.

Statistics on the use of section 41 Terrorism Act 2000

163. On 4 December 2014, the UK Government published the quarterly statistics[169] on the "operation of police powers under the Terrorism Act 2000 and subsequent legislation – arrests, outcomes and stops and searches: Great Britain, quarterly update to 30 June 2014". These show that in the year ending 30 June 2014, there were 43 arrests (18% of total arrests) under section 41 of the Terrorism Act 2000, in Great Britain (thus excluding Northern Ireland). Of these arrests, no individual was held for longer than 8 days[170].

164. According to the report of July 2014[171] of the Independent Reviewer of Terrorism Legislation, the numbers of arrests in Northern Ireland under s.41 Terrorism Act 2000 in 2012/13 and 2013/14 were 157 and 168 respectively, close to the average over the past eight years. All of the 157 arrested in 2012/13 were held for less than a week.

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[168] Pp. 99–103 of Mid Term Report 2014.

[169] https://www.gov.uk/government/collections/operation-of-police-powers-under-the-terrorism-act-2000.

[170] https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2014/07/Independent-Review-of-Terrorism-Report-2014-print2.pdf.

[171] https://terrorismlegislationreviewer.independent.gov.uk/the-terrorism-acts-in-2013-july-2014/.

Bail in terrorism cases

165. There is no provision for bail for individuals arrested under section 41 of the Terrorism Act 2000[172]. The UK Government remains of the view that bail should not be available for terrorist suspects in pre-charge detention in the UK. It should also be noted that decisions relating to arrest and investigation are an operational matter for the police. Terrorist investigations are unique and complex in their nature. In many cases, the very purpose of terrorist investigations is to stop a terrorist attack being carried out, and to protect the public before they come to harm.

166. Schedule 8 to the Terrorism Act 2000[173] provides a clear framework for the arrest and detention of individuals detained under terrorism powers. This includes judicial oversight at appropriate stages of the detention – the police are required to apply to a Magistrates' court for a "Warrant of Further Detention" within 48 hours of the arrest. The court must be satisfied that the continued detention is necessary and that the investigation is being conducted diligently and expeditiously. An individual may be held up to a maximum of 14 days, subject to a further review at the 7 day point.

167. The nature of terrorism-related arrests inherently means that the risk to the public from an individual, or their suspected involvement in a terrorist plot, may not be known at the early stage of an investigation and bail would not be appropriate in such circumstances. The UK Government is satisfied that existing arrangements are proportionate and necessary.

168. 168. That said, the UK Government also recognizes the clear need for proportionate safeguards to deal with those suspected of terrorism. That is why in its 2011 review of counter-terrorism and security powers, the UK Government concluded that the limit on pre-charge detention for terrorist suspects should be reduced from 28 to 14 days, and why a pre-existing order-making power to increase it to 28 days was removed by the Protection of Freedoms Act 2012[174]. Schedule 8 of the Terrorism Act 2000 and PACE Code H[175] (which deals with terrorist detention), already set out the procedure and safeguards which must be followed for those detained for terrorism.

21. Mental health and other care treatment in Scotland

169. The individuals described are protected through mental health and incapacity legislation, which confer statutory duties on the independent Mental Welfare Commission (MWC) to fulfil its safeguarding role. Its work, which includes investigation, monitoring and visiting, is intended to ensure that care, treatment and support are lawful, respect rights and promote the welfare of individuals with mental illness, learning disability and related conditions. Service users and careers are represented on the MWC Board and also act as visitors.

170. The overarching approach of the Mental Health (Care and Treatment) (Scotland) Act 2003 (the 2003 Act) is to ensure that the law and practice relating to mental health should be driven by a set of principles, for example minimum interference in people's liberty. Anyone carrying out duties or providing treatment under the 2003 Act has to follow these principles. Local authorities must ensure that Mental Health Officers (MHO) are appointed to work with individuals required to receive care and/or treatment under the 2003 Act who normally reside within that local authority area. The 2003 Act requires MHO consent

[172] www.legislation.gov.uk/ukpga/2000/11/section/41.
[173] www.legislation.gov.uk/ukpga/2000/11/schedule/8.
[174] www.legislation.gov.uk/ukpga/2012/9/section/57/enacted.
[175] https://www.gov.uk/government/publications/pace-code-h-2012.

before certain orders can be granted or decisions are made regarding the renewal or varying of certain orders. An MHO will also attend Mental Health Tribunal hearings and give evidence. As an MHO is employed by the local authority, any decisions made are independent of medical professionals. Part 16 (Medical Treatment) of the 2003 Act sets out the stringent safeguards in place for the provision of medical treatment to patients, whether capable or incapable of consenting.

171. The Adults With Incapacity (Scotland) Act 2000 (the 2000 Act) has a range of provisions covering the personal welfare and financial affairs of adults who lack capacity to make some or all decisions on their own behalf, and provides safeguards for such adults through the roles and functions of the statutory bodies involved. It sets out arrangements for guardianship orders and intervention orders, made by the Sheriff Court, which provide legal authority for someone to make decisions and act on behalf of the person with impaired capacity, to safeguard and promote their interests. Authority to make welfare decisions can include placement in care settings if specified. Account must be taken of the views of persons with an interest in the welfare of the adult. All interested parties must be notified of the application to ensure that anyone who may object has an opportunity to make their views known to the Sheriff. The Scottish Government is considering recommendations made in the Scottish Law Commission's Report on Adults with Incapacity, which examined the potential application of article 5 ECHR in relation to care arrangements of adults who fall within the scope of the 2000 Act.

22. Prison crowding (England and Wales)

172. There is enough space within prisons to accommodate all offenders, and the UK Government will never be in a position where it cannot imprison those sentenced by the courts. All prisons have safe population levels, and statistics[176] show that crowding is at its lowest levels since 2007/08.The UK Government has considerably increased the adult male prison capacity from the level inherited at the end of the last UK Parliament. The statistics[177] show a further fall in the percentage of prisoners in crowded accommodation, from 23.3% in 2012/13 to 22.9% in 2013/14 and from the highest point in 2007/08 (25.3%). In the past two years, the UK Government opened 2,500 new places, with a further 2,000 places due to open in the next nine months. Work is also starting on a new 2,000-place prison in Wrexham which will be fully operational by late 2017.

173. 173. See also the UK's Mid Term Report 2014 under the UPR[178].

Prison crowding (Northern Ireland)

174. The Northern Ireland Prison Service (NIPS) ten year "Estate Strategy (2012–22)" contains plans for the development of the existing prison estate and the provision of two new facilities for women. Specific projects include:

- A new 360 Cell Accommodation Block for adult males at Maghaberry Prison by 2018;
- A Category A High Security Facility at Maghaberry Prison by 2018;
- A six bed step-down facility for women by July 2015;
- A new prison for women by 2020;

[176] *Source*: UK Government.

[177] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/322504/NOMS_AR_2014.pdf.

[178] Pp. 111–115 of Mid Term Report 2014.

- The redevelopment of a new 720 bed prison on the existing adult male Magilligan Prison site by 2022.

175. The development of the prison estate will ease accommodation pressures by increasing overall capacity from 1,800 at present, to approximately 2,200. This will also enable NIPS to reduce shared accommodation. All of the above are subject to capital funding being available. As part of the plans for the reform of prison services, legislation is being brought forward to reduce the number of people going to prison for fine default. A Fines and Enforcement Bill will provide opportunities for fines to be paid progressively by way of deductions from income. It will also increase the opportunities for community work in place of imprisonment for non-payment.

Prison crowding (Scotland)

176. Since the Community Payback Order and the presumption against short sentences came into force in 2011, the number of community sentences has increased and the number of custodial sentences has decreased. Between 2010–11 and 2013–14, the number of sentences of three months or less (those caught by the presumption) has fallen by 23% in absolute terms (from 5,324 to 4,126) and by 6 percentage points as a proportion of all custodial sentences (from 35% to 29%)[179]. In relation to the reintegration of detainees, the Scottish Government has already identified reducing reoffending as a principle where proactive improvement could make a significant contribution to reducing crime, improving public life, and reducing the prison population. The second three year iteration of the "Reducing Reoffending Programme 2012–15" will include a thorough examination of the funding, structures and performance management for the delivery of adult community justice services, and the establishment of new, improved structures and processes as necessary. A separate project will analyse the management of offenders' transition from custody to community, and deliver improvements to the processes and services available to all prison leavers, with a particular focus on those completing short-term sentences.

177. Please see also the UK's Mid Term Report 2014 under the UPR[180].

Northern Ireland Prison Review

178. See paragraphs 174–175 above.

Young Offenders Institutions in Scotland

179. HM YOI (Young Offenders Institution) Polmont has created a community safety unit, working with a wide range of partner organizations from the community, education sector and the Scottish Government. Polmont has been designated as a "community" for specific focus by the Scottish Government Community Safety Steering Group. Police Scotland has committed to a "campus cop" resource on site to challenge constructively attitudes to authority and support anti-violence work, both in the establishment and in the community on release. A range of interventions is being developed and deployed on site, such as: restorative practices for conflict resolution; anti-violence and anti-bullying workbooks; group work for bullying and knife crime; and associated staff training. The Scottish Government is undertaking development work on issues such as domestic abuse and those types of crime which undermine equality and diversity in society, as well as creating links between the community safety and parenting teams on site to support

[179] See *Criminal Proceedings in Scotland, 2013-14* (published December 2014) – **Error! Hyperlink reference not valid.**, and *Criminal Proceedings in Scotland, 2010-11* (published December 2011) – www.scotland.gov.uk/Resource/0038/00389834.pdf.

[180] Pp. 111–120 of Mid Term Report 2014.

integrated learning. Research is being taken forward on a number of issues to inform our understanding of the needs of young men. Many of the underlying issues which lead to violent behaviour, such as trauma, bereavement, and learning difficulty, are being addressed through education-based interventions and assessment. Speech and language therapy resources from the NHS have been increased and a review of the wider regime is in progress. Arrangements have been put in place to reduce the population on-site at Polmont, with a view to each young man having access, where possible, to a room of their own. This is already improving the environment and allowing more intensive staff interaction. Following a curriculum review undertaken by Education Scotland, a wide range of additional activities, including those focused on relationship skills and citizenship, is being developed. These include life skills, parenting, peer support and one-to-one support for those who are most disengaged, many of whom also exhibit violent behaviour. All staff at Polmont are receiving training, co-delivered with Education Scotland, which focuses on the emotional and social wellbeing of young people and their personal development. The Scottish Prison Service has now adopted as policy a "Vision for Young People in Custody"[181] which sets out medium and longer-term intentions for young people's learning and development while in custody, based upon individual needs.

180. See also paragraphs 169–171 above.

Women prisoners

181. The UK Government published its strategic objectives for female offenders in March 2013, setting out the key priorities for addressing the needs of female offenders and for reducing the number of women in custody. A first year progress report was published in March 2014[182]. Under the "Transforming Rehabilitation" reforms, for the first time in recent history, virtually every offender leaving prison will be given tailored support for at least 12 months and access to programmes aimed at cutting reoffending. Proportionally, more women than men are serving short sentences so they will benefit particularly from this element of the reforms. The UK Government has also put in place safeguards to make sure that the new providers of probation services take the particular needs of women into account. Further initiatives include:

- Piloting in Greater Manchester a pathfinder aimed at providing robust and effective sentencing options in the community that may divert women from custody, where appropriate. Learning from the pathfinder will inform a new operating model for working differently with women in the criminal justice system;
- Testing a new model of liaison and diversion in police custody and the courts. The trial scheme will aim to identify, assess and refer people with mental health, learning disability, substance misuse and social vulnerabilities into treatment or support services. See also paragraphs 184–192 below;
- Reconfiguring the women's custodial estate in a way that keeps women close to where they will live on release. As part of the reforms, all women's prisons are to become resettlement prisons which will mean most offenders will serve their sentence as close to home as possible. They will be better placed to maintain contact with their families and children and gain the skills they need for them to find employment on release so they can turn their lives away from crime;

[181] www.sps.gov.uk/MediaCentre/News-5544.aspx.
[182] https://www.gov.uk/government/publications/strategic-objectives-for-female-offenders--5.

- Introducing a tailored curriculum for women in custody that is designed around their needs. Family Engagement Workers are now in place in public sector prisons to help women maintain and improve links with their families;
- Improving women's access to interventions and sentence progression by improving and increasing prison capacity near to urban areas;
- Improving joined up working across the UK Government to address the needs of female offenders and those at risk of offending.

182. In Scotland, an upgrade to HMP Cornton Vale has included renovation of prison buildings and the creation of a new family/visitor hub, and has benefitted from specialised training for all SPS (Scottish Prison Service) staff dealing with women. A current review of Voluntary Throughcare will improve support for short term prisoners on release from prison: for universal service providers to work together to provide housing, health, mental health, education and employability services to offer meaningful support. A pilot project is taking place at HMP Cornton Vale to enable women prisoners to apply for benefits prior to release, so they receive their proper benefits promptly on release. A pilot project is under way in Glasgow to examine more effective use of diversion from prosecution for women offenders whose chaotic lifestyle can sometimes result in their being ineligible for standard diversion programmes.

183. The Scottish Government has indicated that it plans to engage with stakeholders to consider the future configuration of the female prison estate – including proposals to create a national prison specifically for women serving long term sentences, as well as examining options for a national facility for female young offenders, regional prison facilities, and more community based facilities for women prisoners. This will be considered alongside ongoing work to expand and strengthen the provision of community based alternatives to custody, and community services to assist women not to (re)offend.

Prisoners with mental health conditions

184. In England, the UK Government expects to strengthen the provision of mental health services in prisons. Options for a new pathway, connecting custody, community, as well as secure hospitals, is being drawn up to ensure that any prisoner can have mental health treatment equivalent to the best they would receive in the community, and that this is also available during a community sentence and after prison. The purpose of "Liaison and Diversion" (L&D) services[183], which operate in police stations and courts, is to divert offenders with mental health problems into treatment, or to ensure that they receive the correct support in their journey through the criminal justice system. These have already been tested in 10 trial schemes in 2014 operating to a standard model 2014/15 and are due to be tested in 13 further schemes in 2015/16. The L&D services consist of teams including mental health professionals which are able to recognize (and direct to appropriate treatment) offenders identified as having a mental health condition, or other vulnerability. The L&D model will be independently evaluated to inform a business case for services to cover all of the English population by 2017/18. Details of the L&D services model are publicly available[184], as is the standards' specification[185] for the services. In addition, NHS England has developed national service specifications, which it is rolling out across the prison estate. The specifications are national standards against which services can be measured. Furthermore, the Care Act 2014[186] will ensure that, from April 2015, prisoners

[183] www.england.nhs.uk/commissioning/health-just/liaison-and-diversion/ld-about/#trials.
[184] www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2014/04/ld-op-mod-1314.pdf.
[185] www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2014/04/ld-ser-spec-1314.pdf.
[186] www.legislation.gov.uk/ukpga/2014/23/contents.

with eligible care and support needs will receive services that meet those needs, so that they have as much independence as possible within the constraints of custody.

185. With regards to female offenders with personality disorder, three new personality disorder treatment services for female offenders have been created at HMPs Foston Hall, Eastwood Park and New Hall. These services are for women who have committed violent or sexual offences, or offences against children, as well as being at high risk of reoffending and likely to have a personality disorder/ complex needs. The UK Government also introduced: "psychologically informed planned environments" (known as PIPEs) at two prisons (HMP Low Newton and HMP Send); enhanced community-based services, including treatment programmes and independent mentoring and advocacy in selected regions; and new gender-responsive staff training packages on working with women offenders with personality disorder.

186. It should also be noted that Offender Personality Disorder services are primarily targeted at men who present a high risk of harm to others, and women who present a high risk of committing further violent, sexual or criminal damage offences, and who are also likely to have a personality disorder linked to their offending (complex, long standing, interpersonal problems). The programme focuses on providing a "pathway" of services which aligns with an offender's sentence plan. It includes: improved identification and assessment of offenders early in their sentence; increased treatment capacity; progression services in custody; and approved premises to support offenders to maximize the gains they have made in treatment, and improve their management in prison and in the community. For men, in addition to existing high security prison services at HMPs Frankland and Whitemoor, five new personality disorder treatment services for men at HMPs Garth, Swaleside and Wayland and at HM YOIs (Young Offender Institutions) Aylesbury and Swinfen Hall for young adult offenders have started operation in 2014. The programme also includes providing three small Therapeutic Communities for men with learning disabilities at HMPs Grendon, Gartree and Dovegate. There are also progression services in seven male prisons and five male Approved Premises.

187. Outside of prison, apart from the L&D services referred to above, some police forces are trialling "street triage", where a mental health nurse accompanies police to incidents where police believe people need immediate mental health support. Initial reports from established street triage schemes in Leicestershire and Cleveland show that it can help to keep people out of custodial settings and reduce the demands on valuable police time.

188. With regard to self-harm, the published data in October 2014[187] shows that there were 23,798 incidents of self-harm in the 12 months to June 2014, a small increase from the previous 12 months but lower than in between 2009 and 2011. There are differing trends for females and males: self-harm amongst females has fallen by 43% in the last three years to June 2014, by contrast self-harm amongst males has seen year-on-year increases in eight of the last nine years. The UK Government is working hard to understand the reasons for the rise in male self-harm.

189. Finally, it should be noted that:

- Prison Service Instruction 64/2011[188] "Management of Prisoners at Risk if Harm to Self, to Others and from Others" sets out the framework for delivering safer custody procedures and practices to ensure that prisons are safe places for all those who live or work there.. These procedures include the Assessment, Care in Custody and

[187] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/368370/safety-in-custody-2014.pdf.

[188] www.justice.gov.uk/downloads/offenders/psipso/psi-2011/psi-64-2011-safer-custody.doc.

Teamwork (ACCT) process, which is a prisoner-centred, flexible care planning system for prisoners identified as at risk of suicide or self-harm;

- All new prisoners receive an offender assessment including a health screen and may be seen by a doctor if necessary. Any concerns about a person's mental health at the reception stage or subsequently, may be referred for further assessment. People who are remanded in custody and who are assessed as suffering from mental disorder can, where appropriate, be transferred to a psychiatric hospital. Under section 48 of the Mental Health Act 1983[189] (MHA), the prisoner may be transferred to a secure hospital, following recommendations from two psychiatrists. Convicted prisoners who are subsequently assessed as suffering from mental disorder can, where appropriate, be transferred to a psychiatric hospital under section 47 of the MHA. If a prisoner requires inpatient treatment for severe mental disorder, and meets the criteria for detention under sections 47 or 48 of the Mental Health Act 1983, an application can be made to the Secretary of State for Justice to authorize a transfer to secure mental health services.

190. In Scotland, responsibility for the primary care of women prisoners with mental health conditions lies with the NHS. Each prison holding women has a multidisciplinary mental health team, which works collaboratively to assess and develop individual care plans. Those women in particular distress are cared for under the umbrella of the "Act to Care" strategy, which is focused on those in danger of self-harm and suicide. The Scottish Government has recently funded STORM training across Scotland's Secure Estate to provide a sustainable programme of self-harm and suicide prevention. STORM is an evidence based programme which helps to build the skills and confidence of staff to ask the difficult questions around self-harm, suicide and self-injury.

191. In Wales, health is a devolved matter. There are currently four prisons in Wales each with its own Prison Health Partnership Board that is responsible for identifying and meeting the health needs of the prison population. The Mental Health (Wales) Measure 2010[190] places legal duties on Health Boards and Local Authorities to improve support for people with mental health problems. It emphasizes the need to promote better health and wellbeing among the whole population, ensuring that vulnerable people most in need receive appropriate priority. The Measure is at the core of the Welsh Government's 10-year mental health strategy[191] and the related delivery plan[192], and underpins the core functions of prison mental health services in Wales which include: screening; assessment; collection and appropriate management of clinical information; proportionate sharing of information with relevant agencies; and referral. Following a public consultation[193], the Welsh Government published "Policy Implementation Guidance: Mental Health Services for Prisoners" in May 2014, which covers the role of healthcare services to prisoners, in addition to existing more specific guidance such as "Veteran Informed Prisons – A guide to improving the health and wellbeing of prisoners in Wales who are veterans" (November 2013). The Welsh Government is currently consulting on "Talk to me 2", a suicide and self-harm prevention strategy and a 5-year action plan for Wales[194]. "Talk to me 2" focuses on suicide and self-harm prevention with the overall strategic aim to reduce the suicide rate in

[189] www.legislation.gov.uk/ukpga/1983/20/part/III/crossheading/transfer-to-hospital-of-prisoners-etc.
[190] www.legislation.gov.uk/mwa/2010/7/contents.
[191] http://wales.gov.uk/docs/dhss/publications/121031tmhfinalen.pdf.
[192] http://wales.gov.uk/docs/dhss/publications/121203planen.pdf.
[193] http://wales.gov.uk/consultations/healthsocialcare/prisoner/?lang=en.
[194] http://wales.gov.uk/consultations/healthsocialcare/talk2/?lang=en.

the general population. It will also coordinate suicide prevention plans via collaborative work across statutory and third sector organizations.

192. See also paragraphs 114–116 and 174–175 above.

Yarl's Wood Immigration Removal Centre

193. HM Inspectorate of Prisons (HMIP) conducted an inspection of Yarl's Wood IRC (Immigration Removal Centre) in June 2013 prior to the press reports of allegations of endemic sexual abuse stemming from a case in 2012. HMIP returned to the centre when the allegations of abuse became public and conducted interviews with 50 randomly selected detainees. They found no evidence that a wider culture of victimization or systemic abuse had developed.

194. In response to a recommendation from the inspection, Serco, the service provider, has made efforts to recruit more female staff. The ratio of male to female Detainee Custody Officers in the past year to November 2014 was 54% male to 46% female[195].

195. The UK Government expects the very highest standards from Detainee Custody Officers. All allegations of misconduct are treated extremely seriously. Where staff have been found to have acted inappropriately, their employer (including Serco in the case of Yarl's Wood IRC) can take disciplinary action and they can be dismissed. In the worst circumstances they can face prosecution. Serco has applied a firm and robust policy of disciplinary action that has included dismissal. The UK Government is confident that appropriate action has been taken.

23. Closed material procedure

196. The Justice and Security Act 2013[196] empowers senior courts to apply a "closed material procedure" in civil cases involving sensitive material, the disclosure of which would be damaging to national security. The process contains various judicial safeguards. For more details, please see the UK's Mid Term Report 2014 under the UPR[197].

Miscarriage of justice

197. Article 14(6) of ICCPR does not itself define what constitutes a miscarriage of justice, whose precise definition and parameters are therefore left to the States Parties. The rationale behind s.175 Anti-social Behaviour, Crime and Policing Act 2014[198], which sets out the statutory definition of miscarriage of justice, is publicly set out in the Explanatory Notes of the Act[199]. The UK Government considers that the text of article 14(6) supports its view that compensation should be paid where a new fact shows "conclusively" that there has been a miscarriage of justice, and that, as a result, s.175 Anti-social Behaviour, Crime and Policing Act 2014 is compatible with the Covenant.

Criminal justice system in Northern Ireland

198. In relation to measures to address delays across the criminal justice system in Northern Ireland, a programme of reform comprising procedural, legislative and structural change has been developed. This programme includes a number of significant reforms to address avoidable delay, including committal reform, prosecutorial fines as an alternative to

[195] *Source*: Serco.
[196] www.legislation.gov.uk/ukpga/2013/18/contents.
[197] Pp. 106–108 of Mid Term Report 2014.
[198] www.legislation.gov.uk/ukpga/2014/12/section/175.
[199] www.legislation.gov.uk/ukpga/2014/12/notes/division/5/15/1.

prosecution, measures to encourage earlier guilty pleas, and the introduction of statutory case management. In addition, it is intended to introduce statutory time limits in youth court cases by the end of the current Northern Ireland Assembly mandate (May 2016).

Corroboration of evidence in Scotland

199. Lord Bonomy's independent "Post-Corroboration Safeguards Review", which encompasses a Reference Group comprising, amongst others, leading academics, top lawyers, judges, representatives of victims' groups and the Scottish Human Rights Commission, is currently considering what additional safeguards and changes to law and practice are necessary to maintain a fair, effective and efficient criminal justice system once the corroboration requirement is removed. This necessarily considers human rights in the round. Lord Bonomy has completed a public consultation, with events held across Scotland, and the review is due to produce its final report by April 2015. Further Parliamentary progress of the Criminal Justice (Scotland) Bill has been rescheduled for 2015, after the completion of the review.

24. Judicial review reform

200. The changes made by The Civil Legal Aid (Remuneration) (Amendment) (No. 3) Regulations 2014[200] related to the remuneration of legal aid providers only.

201. The UK Government is considering carefully the next steps in light of the exact terms of a recent court judgment regarding these regulations. However, these regulations did not remove or restrict availability of civil legal aid for judicial review for individuals. The UK Government is therefore satisfied that these changes are compatible with its international legal obligations, and considers that limited legal aid resources should be properly targeted at those judicial review cases where they are needed most, if the legal aid system is to command public confidence and credibility. It therefore implemented the proposal that legal aid providers should only be paid for work carried out on an application for permission in a judicial review case if permission is granted by the court, but subject to a discretion to pay providers for work carried out on an application for permission in cases that conclude prior to a decision on permission.

202. The UK Government considers that the provisions on judicial review in England and Wales in the Criminal Justice and Courts Act 2015[201] are aimed at improving the judicial review process so that it is not open to abuse, and arguable cases can proceed quickly to final resolution. It therefore considers that these reforms are compatible with its international obligations. The UK Government is concerned about the recent growth in applications for judicial review cases which stand little prospect of success, and the strain these put on the courts and other essential public services. They can be used as simply another tool in a sophisticated armoury of campaigning techniques. The reforms intend to guard against that whilst protecting citizens' ability to hold the UK Government to account in the courts.

Legal aid reform

203. As set out in the UK's sixth periodic report under the ICESCR[202] and also in the UK's Mid Term Report under the UPR, since 2010, there has been significant reform of the legal aid system in England and Wales. Civil legal aid has been refocused on those cases where it is most justified. Legal aid continues to be available in the most serious of cases,

[200] www.legislation.gov.uk/uksi/2014/607/contents/made.

[201] www.legislation.gov.uk/ukpga/2015/2/contents.

[202] P. 43 of E/C.12/GBR/6, and pp. 7–8 of Mid Term Report 2014.

for example where people's life or liberty is at stake or where their children may be taken into care. A further objective of reform is to divert those cases where they are more effectively settled out of court. Reforms to the fees paid within the system were also required to meet the requirement for savings. The impact of legal aid reforms are kept under review by the UK Government and the Legal Aid Agency (both the legal aid statistics, and the equality and diversity information on the provision of legal aid are publicly available on the UK Government's website[203]). The UK Government has also committed to conduct a Post Implementation Review 3–5 years after implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. It should also be noted that the Legal Aid Agency funds two types of legal advice service in the Home Office Detention Estate. These are: the Detained Fast Track (DFT) service; and an Onsite Detained Duty Advice Surgery (DDA) service. Both services operate through a duty rota scheme in which the Home Office or the Detention Centre will make a referral to the duty provider for each asylum applicant routed into DFT or a detainee who requires legal advice through the DDA.

Legal aid reform in Scotland

204. Residence is not taken into consideration when determining eligibility for legal aid in Scotland. The Scottish Government's strategy for reforming legal aid is set out in "A Sustainable Future for Legal Aid"[204] (published October 2011), with a view to: focusing legal aid on those who need it most; ensuring wider access to justice – the right help at the right time; maximizing the value of legal aid expenditure; and making the justice system more efficient. Any changes to legal aid in Scotland are assessed for impact on equalities. The Scottish Legal Aid Board's monitoring duty and Access to Justice Reference Group keep access to legal aid under review. No issues have been identified in respect of access to civil legal aid; the network of Civil Legal Assistance Offices is able to apply for civil legal aid on behalf of those who are eligible, and also to represent.

25. Minimum age of criminal responsibility

205. The UK Government has no plans to raise the minimum age of criminal responsibility in England and Wales. For more details, please see the UK's Mid Term Report 2014[205].

206. In Northern Ireland, an independent review of the youth justice system in 2011 recommended that the minimum age of criminal responsibility should be raised. However there are no plans to do so at present as cross-party support would be needed for such a change and there is currently no political consensus to do so.

207. In Scotland, the Scottish Government set the minimum age of prosecution at 12 in the Criminal Justice and Licensing (Scotland) Act 2010. This means that no child under the age of 12 can ever be prosecuted in court (nor can a child 12 years or older be prosecuted for an offence committed at a time when the child was younger than 12); instead, their behaviour will be addressed through the children's hearings system. It is worth pointing out that in the six years before 2010, there was only one case of a child aged between 8 and 11 being prosecuted. This case was ultimately remitted to a children's hearing for disposal. Since the 2010 Act changes, children aged 8–11 who have committed an offence have continued to be referred to a children's hearing on offence grounds. The determination of

[203] https://www.gov.uk/government/collections/legal-aid-statistics; https://www.gov.uk/government/publications/corporate-equality-information.

[204] www.scotland.gov.uk/Publications/2011/10/04161029/0.

[205] Pp. 125–126 of Mid Term Report 2014.

an offence referral by a children's hearing does not constitute criminal proceedings. Children under the age of 8 (the current minimum age of criminal responsibility) can still be referred to the children's hearing system but any offence would be treated under a welfare 'based' ground.

208. There are now provisions in the Children's Hearings (Scotland) Act 2011 which, when implemented, will re-define children's hearings on offence disposals as "alternatives to prosecution" rather than convictions for the purposes of the "Rehabilitation of Offenders" scheme. Changes made by the 2011 Act to the provisions in the Police Act 1997, will, when implemented, restrict future disclosure of these alternatives to prosecution to situations where they relate to a serious sexual or violent offence. The Scottish Government is committed to giving further consideration to the age of criminal responsibility in the current term of the Scottish Parliament, including the practical implications of changes to rules on criminal capacity.

Detention of children in Northern Ireland

209. Following recommendations in the Youth Justice Review, there have been a number of policy and procedural changes aimed at developing a more proportionate response to offending by children, based on the best interests of the child, to divert them away from the formal justice system and towards non-criminal justice interventions. These have included the roll-out of police discretion, the inclusion of a 'best interests' test in the prosecutorial code of practice and the piloting of Youth Engagement Clinics intended to reduce the number of youth cases entering the formal criminal justice system and ensure that children who have offended make fully informed decisions. The number of cases coming to the Public Prosecution Service for a decision fell more than 40% between 2010 and 2013 due to the impact of these initiatives[206].

26. Combating human trafficking

210. An independent review of the National Referral Mechanism (NRM) for victims of human trafficking was published on 11 November 2014[207], and recommended that the system for identifying and supporting victims of trafficking should be overhauled. The UK Government responded to the review through the Modern Slavery Strategy[208], and has welcomed the recommendations. The UK Government is working with partners to develop effective ways in which to implement the changes. The UK Government will:

- Pilot the recommendations of the review, including the introduction of Slavery Safeguarding Leads (the first port of call for potential victims) to improve victim identification;
- Evaluate the anti-slavery awareness campaign's effectiveness and consider how it can be extended alongside delivery of the Modern Slavery Strategy;
- Work with key stakeholders to develop training available to first responder organizations and others likely to come into contact with potential victims of trafficking to improve their ability to identify them;
- Progress the Modern Slavery Bill which creates an obligation for the Secretary of State to produce statutory guidance on victim identification and victim services to ensure that front-line professionals understand how they might encounter and

[206] *Source*: Northern Ireland Executive.
[207] https://nrm.homeoffice.gov.uk/documents/2014/11/nrm-final-report.pdf.
[208] https://www.gov.uk/government/publications/modern-slavery-strategy.

identify potential victims of modern slavery and how they can help them to access the support they need;

- Improve data collection systems.

211. The Council of Europe "European Convention on Action Against Trafficking in Human Beings" (the Human Trafficking Convention) recommends that potential victims are given a minimum recovery and reflection period of 30 days. The UK Government currently provides a minimum recovery and reflection period of 45 days, or until a positive "conclusive grounds" decision is made, whichever is greater. All potential victims are different and as part of the UK Government-funded victim care contract, individuals undergo detailed needs-based assessments to ensure that the support within the recovery and reflection period meets their needs.

212. The Modern Slavery Bill has specific provisions to deal with the issues of compulsion and consent. Clause 1 of the Bill which deals with the offences of slavery, servitude and forced or compulsory labour, provides that the consent of a person (whether an adult or a child) to any act alleged to constitute those offences does not prevent a court from finding that the person was held in slavery, servitude or required to perform forced or compulsory labour.

213. Clause 2 of the Bill, the offence of human trafficking, also makes clear that for the purposes of the offence it is irrelevant whether the victim consented to the travel involved. There is also no requirement that a victim was compelled to be trafficked – an acknowledgement that frequently victims will be deceived into travelling by promises and blandishments. An offence is committed when a person arranges or facilitates the travel of another person with a view to that other person being exploited. Exploitation is defined as slavery, servitude and forced or compulsory labour; the commission of a sexual offence (for example, rape, prostitution); being encouraged, required or expected to allow the removal of organs; securing services/benefits by force, threats or deception; or, securing services from a child or vulnerable person. The last form of exploitation (for example, securing services) does not necessarily require compulsion as it may also be committed by way of deception. There is no requirement that a victim object or attempt to resist the exploitation.

214. The Modern Slavery Bill has two substantive modern slavery offences: one for slavery, servitude and forced or compulsory labour; and one for human trafficking. To prove the trafficking offence, it is necessary to show that a person arranged or facilitated the travel of another with a view to that other person being exploited. It is not necessary for the victim to actually travel – the offence is committed if steps are taken to arrange or facilitate travel. Equally, where slavery, servitude or forced or compulsory labour occurs but there is no element of travel or arrangement or facilitation, it will still be possible for the Crown Prosecution Service to consider prosecuting the offender under clause 1. Criminal exploitation that does not meet the threshold for slavery is covered by other criminal offences, such as under the sexual offences. It will also be possible to prosecute those who are involved indirectly in abusing or exploiting others. In addition, the Serious Crime Bill is seeking to introduce a new participation offence which will ensure that those involved in organised crime groups can be prosecuted and convicted for offences they have committed as part of the group.

215. In Northern Ireland, the Department of Justice in Northern Ireland (DOJ), along with its partners, is working to improve victim identification, through targeted awareness and training for key groups likely to come into contact with potential victims of human trafficking. An example is a mandatory training video for Belfast City Council staff providing an overview of human trafficking in Northern Ireland. The DOJ also co-hosted a cross-border Human Trafficking Forum with the Irish Government which focused on identification of victims and demand reduction. DOJ and its partners are working to raise

awareness of human trafficking amongst the general public through projects such as the United Nations Gift Box. In relation to data, DOJ supports the recommendations in the NRM review, which seek to improve data collection, including the development of a new IT system to support the human trafficking referral mechanism and to manage data in such a way that it can be used to support intelligence gathering. Also, the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 places a duty on specified public authorities in Northern Ireland to notify the National Crime Agency where there is reason to believe that a person may be a victim of a human trafficking or slavery offence. Immigration is a reserved matter and therefore DOJ does not have any role in respect of detention centres. DOJ considers the current 45 day recovery and reflection period to be an appropriate standard and notes that this is in excess of the minimum 30 day period required under the Human Trafficking Convention. In many cases the 45 day period is applied flexibly and support may be provided beyond this period.

216. In addition, section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 places a requirement on DOJ to provide assistance and support for potential victims of trafficking for a minimum period of 45 days, or, where the conclusive determination is not made within 45 days, until such a determination is made. As such, in effect DOJ already provides support beyond 45 days in many cases and will be under a statutory obligation to do so, under such circumstances.

217. Section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 creates a new offence under Northern Ireland law of human trafficking. Subsection (5) makes clear that the consent of a victim to any act which forms part of the trafficking offence is irrelevant, whether a child or adult. It does not remove the link with movement but makes sure that all aspects of arranging or facilitating travel are covered. In addition, section 4 of the Act makes it a crime to commit an offence with the intention of committing an offence of human trafficking or slavery, servitude and forced or compulsory labour. In doing so the Act ensures that all involved in the trafficking chain are complicit in the crimes.

218. In Scotland, following the Human Trafficking Summit, hosted by the Scottish Government in October 2012, Scottish Ministers have been working with other partner agencies to strengthen Scotland's response to human trafficking. The Human Trafficking and Exploitation (Scotland) Bill[209], introduced into the Scottish Parliament on 11 December 2014, contains provisions to consolidate and strengthen existing criminal law against traffickers and those who exploit others; enhance the status of and support for the victims of trafficking; and require the Scottish Ministers and relevant agencies to work together to develop and implement a Scottish Anti-Trafficking and Exploitation Strategy.

219. The gathering of accurate, reliable, data on human trafficking is very complex and difficult. The most reliable figures are contained in the National Crime Agency's Strategic Assessment[210], which estimated 55 potential victims within Scotland in 2013.

220. The Scottish Government will work with the UK Government in taking forward the recommendations following the review of the NRM.

221. The offence of human trafficking in the Human Trafficking and Exploitation (Scotland) Bill makes clear that the consent of any person, adult or child is irrelevant, and that arranging or facilitating travel includes recruitment, transportation, exchange of control of an individual, or harbouring or receiving an individual.

[209] www.scottish.parliament.uk/parliamentarybusiness/Bills/84356.aspx.

[210] www.nationalcrimeagency.gov.uk/publications/390-nca-strategic-assessment-the-nature-and-scale-of-human-trafficking-in-2013/file.

Return of asylum seekers to their countries of origin

222. Those who demonstrate a well-founded fear of persecution or serious harm on return to their country of origin would qualify for asylum (or humanitarian protection if no refugee convention reason). Facing hardship would not normally bring someone within scope unless there was a real risk of treatment contrary to article 3 of ECHR. Where a victim of trafficking does not qualify for asylum, or any other form of protection, the UK Government will, in line with the Council of Europe "European Convention on Action Against Trafficking in Human Beings", consider whether the victim's personal circumstances, or their assistance with criminal investigations, are such that a period of Discretionary Leave (DL) would be appropriate. If this is the case, DL will be granted for a minimum of 12 months and 1 day. Should it be readily apparent that a longer period of leave is required, the UK Government can provide for a single period of DL of up to 3 years. Upon expiry of the DL, the victim can apply for a further period of leave.

223. Where a victim of trafficking does not qualify for asylum, protection or DL, the UK Government can provide reintegration support, to help them return to their own country and rebuild their lives.

Combating forced labour and abuse of migrant workers

224. The UK Government is taking action to help stop practices which exploit vulnerable workers and undercut local businesses that play by the rules, including:

- Taking steps to improve joint working and increase multi-agency enforcement operations;
- Tackling exploitation in private sector supply chains and supporting businesses to establish what more can be done;
- The Modern Slavery Bill will now contain a bespoke measure which will require companies of a certain size to disclose what they are doing to tackle modern slavery in supply chains;

225. Furthermore, overseas domestic workers applying to come to the UK to work within private households have to prove to immigration officials that they have a pre-existing employment relationship with the employer for whom they are intending to work in the UK, for example by providing payslips or work records (this is in addition to a letter from the employer confirming this relationship). Those who believe they have been a victim of trafficking have access to support and protection through the National Referral Mechanism. Anyone who believes they are being mistreated by their employer in any way will have access to a number of organizations who can help including the police, the Pay and Work Rights Helpline and Employment Tribunals where they have jurisdiction. As part of the visa issuing process domestic workers are informed of their rights in the UK. There is now a pilot under way to hand out very simple and easy to understand information cards on arrival to the UK, to complement the information overseas domestic workers already receive with their visa, and to ensure that they understand their rights and the protections available to them in the UK.

226. In Northern Ireland, the Department for Employment and Learning's Employment Relations, Policy and Legislation Branch, which has lead responsibility for migrant workers policy, intends to bring together those Divisions within the Department with strategies that touch on migrant workers issues, in order to develop a cohesive and holistic policy position and approach in regard to migrant worker issues. Initiatives include a workshop aimed at engaging representatives from the Horn of Africa migrant communities with the Department's key learning and employment business areas to provide information, advice and guidance on the range of programmes and services available.

227. In Scotland, section 4 (slavery, servitude and forced or compulsory labour) of the Human Trafficking and Exploitation (Scotland) Bill provides for a standalone offence which reflects article 4 of ECHR (prohibition of slavery and forced labour).

228. See also the UK's Mid Term Report 2014 under the UPR[211].

Establishment of an anti-slavery commissioner

229. Clauses 40–44 of the Modern Slavery Bill establish an Independent Anti-Slavery Commissioner to drive improvements and a more coordinated law enforcement response to modern slavery, working in the interests of victims. An Independent Anti-Slavery Commissioner Designate has already been appointed. The Commissioner's remit is to encourage good practice in the prevention, detection, investigation and prosecution of modern slavery offences and in the identification of victims. The Bill sets out the general functions of the Commissioner role, including reporting, research, joint working — including international cooperation — and education and training.

230. The clauses also set out specific functions around the creation of a strategic plan and an annual report. The Bill provides that specified public authorities are under a duty to cooperate, where possible, with the Commissioner for the purpose of the Commissioner's functions. The Commissioner's reports will be independent and the Commissioner's annual report will be laid before the UK Parliament. The Commissioner will be able to work closely, where appropriate, with the Gangmaster Licensing Authority, Children's Commissioners for England, Wales Scotland and Northern Ireland, the Anti-Slavery Co-ordinator for Wales and other organizations including civil society to report, without fear or favour, on the effectiveness of the law enforcement response to modern slavery and the identification of victims.

231. In Northern Ireland, on 8 December 2014, the Northern Ireland Assembly agreed a Legislative Consent Motion to extend to Northern Ireland a number of provisions in the Modern Slavery Bill, including the Independent Anti-slavery Commissioner. The Commissioner operating across the UK will provide an effective model with oversight of all relevant bodies operating on these issues in Northern Ireland, whether devolved or not, and will be able to identify and advise on best practice across the UK.

232. In Scotland, the Scottish Government is seeking the approval of the Scottish Parliament for the provisions on the Independent Anti-Slavery Commissioner in the Modern Slavery Bill to extend to Scotland.

27. Non-refoulement and diplomatic assurances

233. The UK Government has no plans to abandon its Deportation with Assurances (DWA) policy. However, the UK Independent Reviewer of Terrorism Legislation, Mr David Anderson QC, accepted a government invitation to undertake a review of DWA policy. He is reviewing the framework of the UK's DWA policy and will make recommendations on how it might be strengthened or improved, with particular emphasis on its legal aspects. The report is expected in 2015, with copies being laid before the UK Parliament. The UK Government will closely study the recommendations, if any.

234. It should be noted that the DWA policy has enabled the UK to reduce the threat from terrorism by allowing foreign nationals, who pose a risk to national security, to be deported, while still meeting the UK's domestic and international human rights obligations. The UK Government is satisfied that, in specific cases, Government-to-Government

[211] P. 144 of Mid Term Report 2014.

assurances ensure that the human rights of individual deportees will be respected on their return. The courts have upheld the principle of relying on Government-to-Government assurances in specific cases. For example, in the ruling on Othman (Abu Qatada) in 2012[212], the ECtHR accepted that the use of diplomatic assurances could address the risk of an individual receiving ill treatment. The UK Government has considered DWA for a small number of cases where prosecution in the UK is not an option and there is a risk to national security, or after someone has been convicted and has served a sentence for terrorist offences in the UK. The UK Government will not remove someone if there are substantial grounds for believing that they will face a risk of torture or other cruel, inhuman or degrading treatment in their home country, or where there is a significant risk that the death penalty will be applied. To date, the UK has removed 12 individuals under these arrangements.

235. Finally, the UK Government's DWA arrangements include public and verifiable assurances which have been, and continue to be, tested and upheld by the courts. They are set out in agreements between the UK and the country concerned. These include specific assurances for each individual returned, and nomination of a monitoring body, usually a local independent NGO or NHRI, to ensure compliance with the terms of the agreement in each case.

Detention in Immigration Removal Centres

236. The UK Government is keen to ensure that detention is used only as a last resort and that periods in detention are kept as short as possible. Each case is reviewed at regular intervals to ensure detention continues only for as long as it remains necessary and reasonable. However, detention can be prolonged where individuals fail to comply with the re-documentation and/or removal processes, or submit very late, or multiple, applications or appeals. It has been the UK Government's longstanding position that introducing a fixed time limit on detention would be inappropriate. Any such time limit would be arbitrary, taking no account of an individual's circumstances, and would serve only to encourage individuals to delay or frustrate immigration and asylum processes, including their lawful removal from the UK, in order to reach a point where they had to be released from detention. That would be incompatible with the need to protect the UK border and maintain effective immigration control. There are no plans to change this approach.

Detained Fast Track System

237. The High Court's judgment stated that in some cases, legal representatives were allocated to asylum applicants too late in the DFT (Detained Fast Track) process, which was considered significant enough to carry a high risk of unfairness for those who may be vulnerable. Immediately after the judgment was handed down, the UK Government implemented new arrangements, that ensured that legal representatives are allocated to asylum claimants that require them (around 50% of asylum claimants arrive with a lawyer already[213]) on the day of induction to DFT or, where that is not possible, no later than two working days after induction. In addition, the UK Government is now ensuring that there are four clear working days between the allocation of a lawyer and the asylum interview except where the asylum claimant and lawyer advise that they want an earlier interview.

238. The judgment observed that the current asylum screening process did not do enough to identify and exclude from DFT vulnerable people or those with particularly complex claims. The UK Government has since changed the questions asked in the screening

[212] http://hobhouse.bailii.org/eu/cases/ECHR/2012/56.html.

[213] *Source*: Home Office.

interview to help address this issue and there is an ongoing review of the screening process that incorporates discussions and input from external stakeholders.

239. The UK Government's Rule 35[214] processes were identified as not operating as well as they should. Releases can and do result from Rule 35 reports and a recent sampling exercise has reconfirmed this position and identified some other issues for improvement. The UK Government has already taken steps to improve awareness of existing process requirements, and has consulted external partners on improvements to the operation of Rule 35; further measures will be introduced in the coming months to ensure that the process operates as effectively as possible.

28. Interception of communications

240. Interception and access to communications data are subject to strict safeguards through the Regulation of Investigatory Powers Act 2000[215] (RIPA) which ensures compatibility with the UK's human rights obligations. RIPA provides that interception warrants can only be issued and renewed by the Secretary of State, for a small number of agencies and for a limited range of purposes. It provides for independent oversight, through independent commissioners, and it provides an impartial route of redress, through the Investigatory Powers Tribunal. The legal regime for interception has been tested in the domestic courts and the ECtHR. That regime is lawful and human rights compliant.

241. There are well established safeguards covering the use of communications data. Communications data may only be acquired from telecommunications providers by public authorities that have been approved by the UK Parliament to do so. Data is obtained on a case by case basis and must be authorised by a senior officer at a rank stipulated by the UK Parliament. The authorizing officer may only authorize a request for communications data if the tests of necessity and proportionality are met in that particular case. The Interception of Communications Commissioner provides independent oversight of the acquisition of communications data by public authorities, including through inspections of public authorities and publishes detailed reports, now twice a year. He is also under a duty to audit compliance with the application of the provisions of The Data Retention and Investigatory Powers Act 2014[216] (DRIPA) with regard to the integrity, security and deletion of retained data.

242. DRIPA did not create any new powers, rights of access, or obligations on communications service providers that went beyond those that already existed. DRIPA clarifies and sits alongside the already robust RIPA, which regulates the use of these investigatory tools. In response to the judgment of the Court of Justice of the European Union in April 2014, declaring the EU Data Retention Directive invalid, DRIPA provides a clear legal basis on which domestic companies can be required to retain certain types of communications data where that is necessary and proportionate for one of the purposes set out in RIPA. DRIPA also clarifies the territorial extent of RIPA. In the absence of explicit extra-territorial jurisdiction, some overseas companies started to question whether RIPA applies to them. DRIPA therefore makes clear that any company offering services to customers in the UK must comply with lawful authorizations under RIPA, irrespective of where those companies are based.

243. The Counter-Terrorism and Security Act 2015 includes clauses that amend DRIPA to allow for the retention by communications service providers of data necessary to resolve an Internet Protocol address to an individual or device. This provision is vital to ensure that

[214] www.legislation.gov.uk/uksi/2001/238/article/35/made.
[215] www.legislation.gov.uk/ukpga/2000/23/contents.
[216] www.legislation.gov.uk/ukpga/2014/27/contents.

law enforcement can continue to detect and disrupt crime where people's communications have moved online.

DNA retention

244. Part 1 Chapter 1 of the Protection of Freedoms Act 2012[217] provides for the destruction, retention and use of fingerprints and DNA and the majority of the provisions were commenced on 31 October 2013. Under the Act, DNA samples must be destroyed as soon as a profile has been derived from them or after 6 months whichever is the shorter period, regardless of whether the person is convicted or not. The Act also requires that, unless an individual is convicted of an offence (including cautions, reprimands and warnings), their DNA profile and fingerprint record must be destroyed with a few narrow exceptions as follows:

- Where an individual is charged with but not convicted of a qualifying offence (these include sexual, violent, terrorism and burglary offences), their DNA profile and fingerprint record may be retained by the police for a period of 3 years (plus a 2-year extension if granted by a court);
- Where an individual is arrested for, but not charged with, a qualifying offence, their DNA profile and fingerprint record may be retained by the police for a period of 3 years, but only if permission is granted by the independent Biometrics Commissioner[218] who considers whether retention is appropriate. If granted, once the 3 year period has expired, the police may apply to a court for a 2-year extension as above;
- Where there are concerns around national security, a chief officer of police may make a "National Security Determination (NSD)" which permits retention of the DNA profile and fingerprints for a period of 2 years. The Biometrics Commissioner reviews these and if he is not satisfied, the DNA profile and fingerprints must be destroyed. At the end of the 2 year period, the chief officer may apply for the NSD to be renewed;
- Where an individual receives a Penalty Notice for Disorder their DNA profile and fingerprint record may be retained for a period of 2 years.

245. The UK Government believes that these provisions strike the right balance between protecting the freedoms of those who are innocent of any offence whilst ensuring that the police continue to have the capability to protect the public and bring criminals to justice

246. In Northern Ireland, DNA and fingerprints taken by the police under the Police and Criminal Evidence (Northern Ireland) Order 1989 may be retained indefinitely. The Criminal Justice Act (Northern Ireland) 2013 made provision for a new regime for the retention and use of destruction of biometric material which imposes much more restrictive rules and draws a clear distinction between those who have been convicted of offences and those who have not. It is anticipated that the new framework will be brought into force in October 2015. Under the new rules, police may, with some exceptions for juvenile convictions, continue to retain indefinitely the DNA and fingerprints of persons who have been convicted of a recordable offence. This is currently the subject of a judicial challenge to the UK Supreme Court (UKSC 2013/0090) and a judgment is expected in early 2015. Pending the outcome of that judgment, DNA and fingerprints from those convicted may continue to be retained indefinitely on the basis that retaining an individual's biometrics on

[217] www.legislation.gov.uk/ukpga/2012/9/part/1/chapter/1.

[218] https://www.gov.uk/government/organisations/biometrics-commissioner.

the grounds that they may commit another offence pursues a legitimate aim of assisting police with the detection and prevention of crime. The Northern Ireland Department of Justice maintains that this is a necessary justification which strikes a proportionate balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.

247. In Scotland, the DNA retention system has been widely praised for striking the right balance between protecting the public and protecting the right of the individual. The Scottish Government's approach to the retention of DNA has also been highlighted as a good model by the ECtHR (*S & Marper v. UK*). The Criminal Justice and Licensing (Scotland) Act 2010 strengthened the retention policy, including provisions for retention of data from those accepting fiscal disposals and fixed penalty notices.

29. Libel laws in Northern Ireland

248. A consultation on defamation law more generally took place in Northern Ireland and closed on 20 February 2015.

Libel laws in Scotland

249. The Scottish Parliament consented to the application of certain provisions of the Defamation Act 2013 to Scotland so that academic (including scientific) activities have the defence of qualified privilege[219]. In addition, the Scottish Government is arranging for an independent review of the law in this area.

Official Secrets Act 1989

250. The UK Government does not agree that this legislation is incompatible with article 19 of ICCPR, the right to freedom of expression and to receive and impart information. The Official Secrets Act 1989[220] protects information relating to matters of national security and the UK Government's position remains as stated in the UK's seventh periodic report[221] under the ICCPR, namely that any release of such information without lawful authority is damaging. It remains the case that there are avenues available for any employees who have concerns, and a prosecution will proceed only where the evidence is sufficient, the public interest has been considered and the Attorney General has consented.

Definition of "domestic extremism"

251. The UK Government's "Prevent Strategy" defines extremism as: "vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs". The definition also includes calls for the death of members of the UK Armed Forces, whether in this country or overseas. In December 2013, the UK Government's "Extremism Taskforce" set out its proposals to tackle extremism[222] including: disrupting extremists; countering extremist narratives and ideology; preventing radicalization; and stopping extremism in institutions. The definition of "domestic extremism" by the ACPO (Association of Chief Police

[219] www.scottish.parliament.uk/parliamentarybusiness/Bills/52618.aspx.

[220] www.legislation.gov.uk/ukpga/1989/6/contents.

[221] P. 48 of CCPR/C/GBR/7.

[222] https://www.gov.uk/government/publications/tackling-extremism-in-the-uk-report-by-the-extremism-taskforce.

Officers) was raised in the report of HM Inspectorate of Constabulary[223] referred to in paragraph 252 – please see the response below.

Monitoring protest groups

252. On 20 March 2013, the UK Government commissioned HM Inspectorate of Constabulary (HMIC) to review the progress of the police in implementing HMIC's "A review of national police units which provide intelligence on criminality associated with protest"; HMIC reported on 27 June 2013[224]. Section 5 of HMIC's report stated that: "5.1 As a result of the HMIC 2012 report, there is now much tighter governance of domestic extremism undercover policing. But this is only a small part of police undercover activity. Most undercover work is aimed at serious organised crime, major crime or counter terrorism. 5.2 We therefore believe that further inspection work is necessary to examine all police undercover work (including foundation undercover deployments). This would help reassure ministers and the public that the tactic is being used in a lawful, proportionate and ethical way". The UK Government therefore commissioned a wider inspection of undercover work on 27 June 2013; HMIC published its report on 13 October 2014[225]. The UK Government asked the College of Policing and the National Policing Leads to produce an action plan to respond to the report's recommendations; that plan was placed in the Library of the House of Commons on 5 January 2015. On 12 March 2015, the UK Government announced[226] a judge-led statutory inquiry into undercover policing, to be chaired by Lord Justice Pitchford.

253. In Scotland, covert surveillance is regulated by the Regulation of Investigatory Powers (Scotland) Act 2000 (RIP(S)A). RIP(S)A requires that the authorization of surveillance must first of all be necessary for one or more statutory purposes: preventing or detecting crime or preventing disorder, in the interest of public safety, or for the purpose of protecting public health. If the covert activity can be shown to be necessary, it must then be shown to be proportionate. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. Undercover operatives are classified as covert human intelligence sources, which are also regulated by RIP(S)A. As of December 2014, secondary legislation has been laid in the Scottish Parliament[227], which seeks to further regulate the use of undercover operatives by raising the level at which authorization is required and introducing an element of independent oversight and prior approval from the Office of Surveillance Commissioners.

Measures to contain protesters

254. With regard to "containment", the UK Government maintains the position set out in the UK's seventh periodic report under the ICCPR[228]. With regard to the use of other measures, it should be noted that Part 2 of the Public Order Act 1986[229] does confer to the police powers to impose conditions on public processions and on public assemblies, in

[223] www.justiceinspectorates.gov.uk/hmic/media/review-of-national-police-units-which-provide-intelligence-on-criminality-associated-with-protest-20120202.pdf.

[224] https://www.justiceinspectorates.gov.uk/hmic/publication/national-police-units-which-provide-intelligence-on-criminality-associated-with-protest-progress-review/.

[225] https://www.justiceinspectorates.gov.uk/hmic/publication/an-inspection-of-undercover-policing-in-england-and-wales/.

[226] https://www.gov.uk/government/news/home-secretary-announces-statutory-inquiry-into-undercover-policing.

[227] www.legislation.gov.uk/ssi/2014/339/policy-note/contents.

[228] P. 165 of CCPR/C/GBR/7.

[229] www.legislation.gov.uk/ukpga/1986/64/part/II.

order to minimize the risk of public disorder, serious damage to property, serious disruption to the community or the intimidation of other people. Furthermore, the Act contains provisions for the prohibition of public processions (if the conditions imposed are not sufficient) in order to prevent serious public disorder, and also permits the prohibition of trespassory assemblies (that is, those assemblies carried out on private land or land with limited access by the public).

Police, Public Order and Criminal Justice (Scotland) Act 2006

255. Any restrictions on marches and parades must take account of the fundamental rights contained in the ECHR. The Scottish Government fully supports freedom of speech and peaceful assembly. Static demonstrations require no prior notice and the police will only take action if there is criminality. The Scottish Government has no plans to alter the current notification period of 28 days for public processions under Part V (public processions) of the Civic Government (Scotland) Act 1982 ("the 1982 Act"). The notification period was, in fact, extended from seven days to 28 days (by amendments made to the 1982 Act by the Police, Public Order and Criminal Justice (Scotland) Act 2006) under a previous Scottish administration to allow local authorities more time to consider notifications and reach a decision on whether to allow the parade, give public notice of forthcoming events in the area, and allow for effective planning of police resources. On cost recovery, charges are discussed and negotiated with the organizers. The purpose of the charges is to ameliorate the real and potential negative impacts of processions upon local communities, as well as ensuring the safety of both participants and the public. In the absence of those, some parades might not be able to proceed. It is the Scottish Government's view that these costs are appropriate, legitimate and proportionate, and do not have the effect of unduly restricting the exercise of peaceful assembly. The Advisory Group on Tackling Sectarianism has commissioned research on marches and parades. The key aim of the research is to explore the impact marches and parades have on the local communities in which they take place. The project will inform dialogue about how best to balance the key aspects of marches and parades. The final report is expected by March 2015.

30. Prisoners' voting

256. The UK Government continues to consider the issue of prisoner voting rights but this is a difficult and complex area. Draft proposals were presented to the UK Parliament in November 2012[230]. However, despite continued consideration of the issues, it is clear that a consensus will not be reached (and therefore the UK Government will not introduce legislation on prisoner voting rights) in this Parliament.

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[230] https://www.gov.uk/government/news/prisoner-voting-rights.